

90-531

No.

Supreme Court, U.S.

FILED

SEP 26 1990

JOSEPH F. SPANIOL, JR.
CLERK

THE SUPREME COURT OF THE UNITED STATES

October Term, 1990

ROBERT WOODS,

Petitioner,

vs.

LOUIS ROSENBERG,
PAULA TEMPLETON, and
SAUNDRA HOPFER,

Respondents,

Writ of Certiorari
to the United States Court
of Appeals for the Third Circuit

PETITION FOR WRIT OF CERTIORARI

ROBERT WOODS, PRO SE
Petitioner

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QUESTIONS PRESENTED

- I. WHETHER THE RESPONDENT, DISTRICT JUDGE LOUIS ROSENBERG, LACKED SUBJECT MATTER JURISDICTION TO STAY A STATE COURT EXECUTION?
- II. WHETHER A DISTRICT COURT JUDGE WHO ACTS IN CLEAR ABSENCE OF SUBJECT MATTER JURISDICTION IS NOT PROTECTED BY THE DOCTRINE OF JUDICIAL IMMUNITY?



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PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT

To the Honorable, the Chief Justice and
Associate Justices of the Supreme Court
of the United States:

ROBERT WOODS, the Petitioner
herein, prays that a writ of certiorari
issue to review the judgment of the
United States Court of Appeals for the
Third Circuit, entered in the above
entitled case on June 28, 1990.

OPINIONS BELOW

The Opinion of the United States
District Court for the Western District
of Pennsylvania is unreported and is
printed in the Appendix hereto, infra,
page A-1. The United States Court of



Appeals for the Third Circuit did not issue an opinion. The Opinion of the United States Court of Appeals for the Third Circuit, at No. 89-3557, ruling on the Respondent's preliminary injunction, is printed in the Appendix at A-109.

JURISDICTION

The judgment of the United States Court of Appeals for the Third Circuit sought for review was entered on June 28, 1990. No petition for rehearing was filed. The jurisdiction of the Supreme Court is invoked under 28 U.S.C. 2101(c) and Supreme Court Rule 20.2 which provide for the filing of a Writ of Certiorari intended to bring before the United States Supreme Court a judgment in a civil action for review from a United States Court of Appeals.



STATUTES INVOLVED

This case involves the bankruptcy jurisdiction statute at 28 U.S.C. §1334 (a), (b) and (d) as follows:

28 U.S.C. 1334.

Bankruptcy Cases and proceedings.

(a) Except as provided in subsection (b) of this section, the district court shall have original and exclusive jurisdiction of all cases under Title 11.

(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising in or related to cases under Title 11.

* * *

(d) The district court in which a case under Title 11 is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor of such case, and of property of the estate.

and 42 U.S.C. 1983 as follows:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be



subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, and Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia."



STATEMENT OF CASE

a. The Bankruptcy Action:

The case from which the preliminary injunction arose began as an adversary proceeding related to an involuntary bankruptcy petition. The adversary proceeding involved a Motion for a Temporary Restraining Order filed by Joseph E. Hudak (hereinafter "Hudak"). A consent order (hereinafter the "Consent Order") was entered in the adversary proceeding on October 1, 1987. (A-12). The Consent Order limited contact between Hudak, and Robert Woods, (hereinafter "the Petitioner Woods"), Michael S. Geisler (hereinafter "Geisler") and Richard O'Brien, (hereinafter "O'Brien") along with other provisions, including a provision allowing the parties to pursue all legal claims. The involuntary



bankruptcy proceeding was dismissed on November 30, 1987. (A-19) On March 31, 1988 and on April 7, 1988, Hudak filed Motions for Contempt against the Petitioner Woods, Geisler, and O'Brien. Hearings on the said Motions for Contempt were held from June 7 through June 16, 1988. District Judge Louis Rosenberg (hereinafter "District Judge Rosenberg") issued an order (hereinafter the "Contempt Order") holding the Petitioner Woods, O'Brien, and Geisler, in contempt. The three above parties appealed the Contempt Order to the United States Court of Appeals for the Third Circuit. The United States Court of Appeals for the Third Circuit affirmed the Contempt Order of District Judge Rosenberg, in part, on June 30, 1989.



b. The state court proceedings and federal court injunction.

On June 21, 1989, in two (2) separate state court proceedings in the Court of Common Pleas of Allegheny County, Pennsylvania, at A.D. No. 1675 of 1988 and A.D. No. 1676 of 1988, two (2) non-jury trials were held before Judge Robert A. Doyle of said state court. The defendants in said cases, Joseph E. Hudak, and Sharon Lavelle, a/k/a/ Sharon Hudak, (hereinafter "the Hudaks") did not appear. One of the plaintiffs in those proceedings, Robert Woods, did appear, and presented evidence before Judge Doyle. On June 23, 1989, Judge Doyle rendered a non-jury verdict of \$782.06 plus interest from September 1, 1987 against the Hudaks, and for the Petitioner Woods, and Geraldine E. Woods, and dismissed the counterclaim of



the Hudaks, in the case filed in that court at A.D. No. 1676 of 1988. (A-21). On June 26, 1989, Judge Doyle rendered a non-jury verdict of \$653.28 with interest from December 10, 1987 against Sharon Lavelle, a/k/a Sharon Hudak, and for the Petitioner Woods and Geraldine E. Woods, and dismissed the counterclaim of Sharon Lavelle a/k/a Sharon Hudak, in the case filed in that court at A.D. No. 1675 of 1988. (A-22)

The Hudaks filed two (2) Petitions to Open Judgment, claiming primarily that they never received notice of the non-jury trials, and presented the Petitions before Judge Doyle. The Hudaks never filed Post Trial Motions for Relief under Pa. R.C.P. 227.1. Relying on the fact that the Notice of Hearing was duly published in the Pittsburgh Legal Journal, and that the Hudaks had filed no



Post Trial Motions, Judge Doyle denied both Petitions to Open Judgment, and refused to grant a rule to show cause why the judgments should not be opened. (A-23 to A-24) Judgment was entered on both non-jury verdicts.

After execution began on the judgments as specified in the Statement of Facts below, Hudak filed an "Emergency Motion" on July 25, 1989, to stay the state court executions against him. (A-25) The Respondent Rosenberg temporarily stayed the executions until the hearing on July 27, 1989. (A-32) Geisler filed a response to the Emergency Motion. After the hearing on July 27, 1989, the District Court granted the temporary restraining order by Order and Opinion dated July 28, 1989. (A-36) On August 8, 1989, the District Court converted the temporary



restraining order into a preliminary injunction. (A-51) The Petitioner Woods appealed that decision this Honorable Court on August 10, 1989. On August 11, 1989, Judge Doyle issued an Opinion in support of his prior orders denying the Hudaks' Petitions to Open Judgment. (A-54) On February 23, 1990, the United States Court of Appeals for the Third Circuit reversed Respondent Rosenberg's granting of a preliminary injunction at No. 89-3557. (A-109)

c. The 42 U.S.C. § 1983 action.

On October 23, 1989, the Petitioner filed a Complaint, a civil rights action under 42 U.S.C. § 1983, which averred that acting under color of law and under their authority as public officials of the United States District Court, the



Respondents deprived the Petitioner of property without due process of law, specifically, in issuing a temporary restraining order, and converting said order into a preliminary injunction, in clear absence of subject matter jurisdiction. (A-61) The Defendants filed their Motion to Dismiss on November 3, 1989 raising three objections: (1) That the Complaint failed to state a claim upon which relief could be granted, (2) That the Respondents were immune from suit as a result of the doctrine of judicial immunity, and (3) That the Complaint was vexatious, meritless, frivolous and malicious. (A-101) The lower court case was assigned to the Honorable District Judge William W. Caldwell (hereinafter "District Judge Caldwell"), of the Middle District of Pennsylvania on November 15, 1989. The



Petitioner filed a Response to the Motion to Dismiss on December 22, 1989. (A-105) On February 5, 1990 District Judge Caldwell entered a Memorandum and Order dated February 1, 1990, granting the Defendant's Motion to Dismiss with prejudice. (A-1) The Petitioner filed a Notice of Appeal to the United States Court of Appeals for the Third Circuit on February 23, 1990. On June 28, 1990 the United States Court of Appeals affirmed District Judge Caldwell's order, without opinion. (A-10)



REASONS FOR GRANTING WRIT

I. THE DISTRICT COURT LACKED SUBJECT MATTER JURISDICTION TO STAY A STATE COURT EXECUTION.

Whether a court has jurisdiction over a non-federal claim between non-diverse parties is determined by a two-stage analysis. Owen Equipment Co. v. Kroger, 437 U.S. 365, 98 S.Ct. 2396, 57 L.Ed.2d 274 (1978). Aldinger v. Howard, 427 U.S. 1, 96 S.Ct. 2413, 49 L.Ed.2d 276 (1976).

First, one must inquire into whether the Constitution gives the District Court power to adjudicate the dispute, for which the test is whether the claims present "a common nucleus of operative fact...such that a plaintiff would ordinarily be expected to try them all in one judicial proceeding." United Mine



Workers v. Gibbs, 383 U.S. 715, 725, 86 S.Ct. 1136, 1138 16 L.Ed.2d 218 (1966).

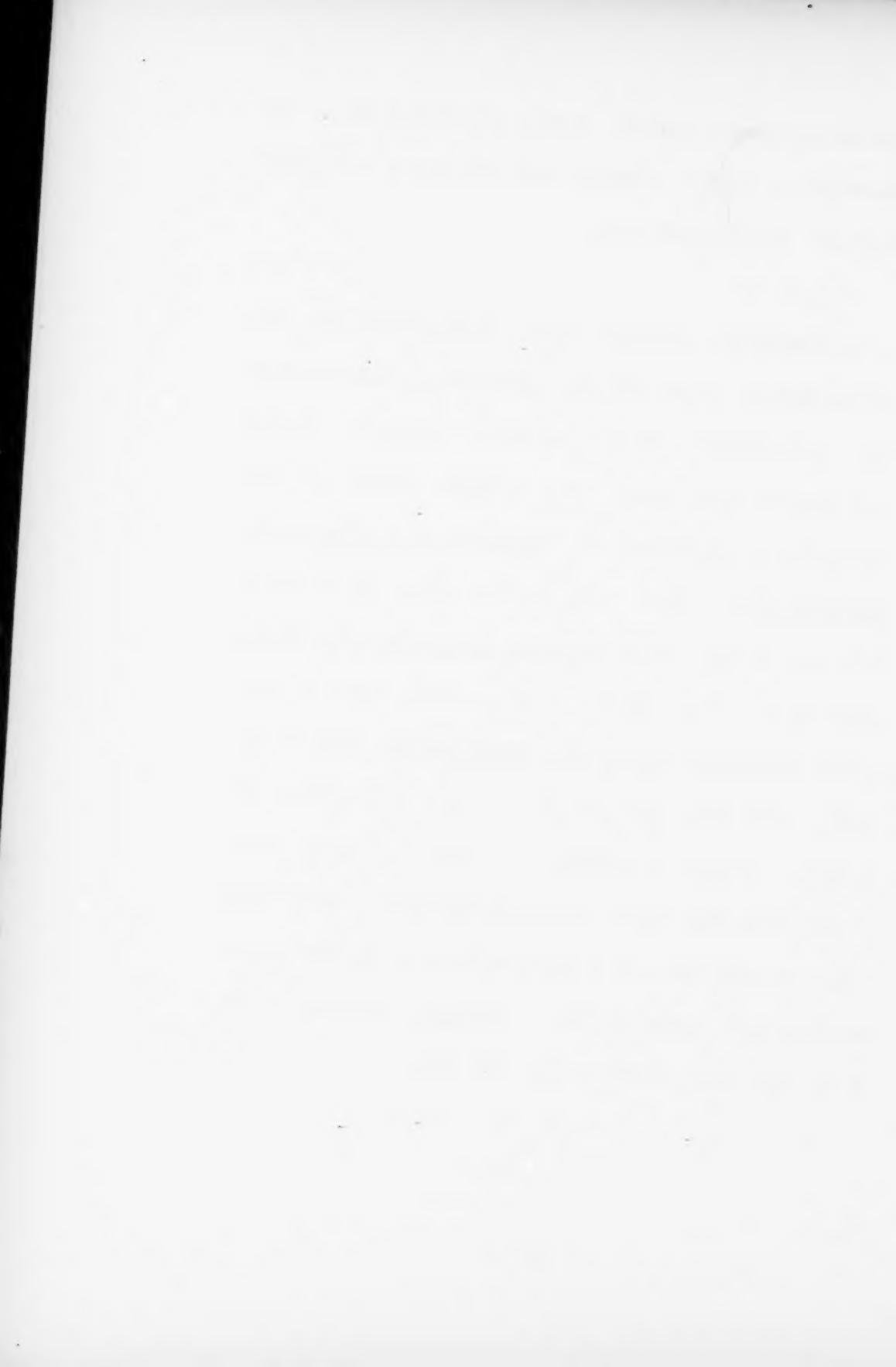
Secondly, "there must be an examination of the posture in which the non-federal claim is asserted and of the specific statute that confers jurisdiction over the federal claim, in order to determine whether congress in (that statute)" has... expressly or by implication negated" the exercise of jurisdiction over the particular non-federal claim." Owen Equipment, supra, 437 U.S. at 373.

The District Court lacked subject matter jurisdiction over a state court execution pursuant to an assumpsit claim. During the pendency of the involuntary bankruptcy proceeding subject matter jurisdiction existed. Once the



bankruptcy case was dismissed, in November, 1987, there was no more subject matter jurisdiction.

A federal court has jurisdiction to effectuate its prior orders, regardless of whether the court would have jurisdiction over the claim were it an original action. Dugas v. American Surety Co., 300 U.S. 414, 428 52 S.Ct., 521 81 L.Ed. 720, Local Loan Co. v. Hunt 292 U.S. 234, 239, S.Ct. 695, 697 L.Ed. 1230 (1934); Root v. Woolworth 150 U.S. 401, 410-12, 14 S.Ct. 136, 138-139, 37 L.Ed. 1123 (1893). This rule was "subject to the qualification that the relief not be of a different kind or on a different principle. Dugas, supra, 300 U.S. at 428, 575 S.Ct. at 521.



However, in this case, the court could not effectuate its prior order, in that the Consent Order of October 1, 1987, on which the court relies, states clearly in its paragraph 15:

"15. Nothing in the Order shall prohibit any party from pursuing any legal remedy for which he is entitled under the law."

Therefore, because the District Court already allowed the parties to pursue legal remedies, the execution could not in any way be a contempt of the Consent Order of October 1, 1987.

The Court of Common Pleas of Allegheny County, Pennsylvania already determined that the judgments entered against the Hudaks were valid. The state court determined that the Hudaks had notice of the arbitration appeals. The state court



also determined that the Hudaks did not preserve any of the issues they complained of in the state court for appeal as they was required to do by state court rules. When the Hudaks lost because of this mistake, they came flying into federal court before Respondent Rosenberg with an emergency motion.

Respondent Rosenberg allowed the Hudaks to relitigate all of the issues determined in state court. Respondent Rosenberg made a finding that the execution was a continuation of the conduct already proscribed by his prior orders, but made no finding of contempt.

The United States Court of Appeals for the Third Circuit stated in its opinion at No. 89-3557 reversing the Respondent Rosenberg's order as follows:



"The basis for the district court's order is puzzling. If it were based on a violation of its earlier orders, as the district court implies, one would think that a contempt order would have been sought. But, on the assumption that the injunction was warranted on some theory of interference with the operation of the federal court orders, it is not apparent to us how a dispute as to the adequacy of a notice of hearing in the Court of Common Pleas was a matter for federal cognizance. Indeed, it seems particularly strange for us that the injunction was to be operative 'until further order of this court, pending resolution of the Defendant's appeal in the state court' Assuredly, the matter of a stay of execution on a state court execution on a state court judgment pending review in a higher state court, without more, cannot justify federal court intervention."

The words "federal cognizance" above are easily equated with "federal subject matter jurisdiction". The Circuit Court's reversal of that lower court decision could be interpreted only one way. Respondent Rosenberg lacked



subject matter jurisdiction over the matter being stayed, i.e. the state court action.

II. A DISTRICT COURT JUDGE WHO ACTS IN CLEAR ABSENCE OF SUBJECT MATTER JURISDICTION IS NOT PROTECTED BY THE DOCTRINE OF JUDICIAL IMMUNITY.

District Judge Caldwell, in his memorandum opinion dismissing the Petitioner Woods' Complaint, stated that the Petitioner Woods' claim of clear absence of subject matter jurisdiction is without merit. Judge Caldwell cites the Circuit Court's determination, in a prior appeal, that Respondent Rosenberg had jurisdiction over the bankruptcy matter and the contempt proceeding. However, the acts of the Respondents sued upon in the Complaint concerns neither the bankruptcy action nor the contempt



proceeding. The Complaint states a cause of action against District Judge Rosenberg and his staff for their conspiracy to deprive Woods of his right to due process as a result of their conspiracy to contrive the issuance of injunction of the state court execution.

Two state court judgments were won fairly and properly. Execution began on those judgments. The Hudaks attempted to open the judgments before state court Judge Doyle. Judge Doyle properly denied those motions. The Hudaks then ran to the Respondent Rosenberg's court screaming that here was another instance of a violation of the said Contempt Order, with an self-styled "Emergency Motion". Respondent Rosenberg granted the stay, apparently attempting to tie the executions to the Contempt Order by



calling them a continuation of conduct previously proscribed, and using reasoning subsequently described by the Circuit Court as being "puzzling". The Circuit Court also noted that no Motion for Contempt was filed by the Hudaks, and no determination of contempt was made.

If this order was to effectuate the Defendant's prior orders, why was no determination of contempt made or sought? The truth lies in the facts stated early in Petitioner Woods' Complaint. Respondent Rosenberg and his staff were biased against the Petitioner Woods, and Respondent Rosenberg would have signed any motion Hudak would have presented to him, no matter that there was no subject matter jurisdiction.



The Respondents cited numerous cases in their Memorandum in support of their Motion to Dismiss Complaint, all prisoner complaints, and in all of the cited cases, there can be no question that the doctrine of judicial immunity applies. To lump Petitioner Woods' case with these obvious cases would be easy, but completely improper. The actions of Respondent Rosenberg and his staff were outrageous and completely actionable.

District Judge Caldwell cites the case of Stump v. Sparkman, 435 U.S. 349, 98 S.Ct. 1099, L.Ed.2d 331 (1978), as authority for Respondent Rosenberg's judicial immunity. The Stump court also reaffirmed the exception that a judge who acts in the absence of subject matter jurisdiction may be held liable for his judicial acts. Stump v. Sparkman, *supra*.



Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872). In Bradley v. Fisher, supra, the exception was clearly stated as follows:

"Where there is clearly no jurisdiction over the subject-matter any authority exercised is an usurped authority, and for the exercise of such authority, when the want of jurisdiction is known, no excuse is permissible."

The acts of Respondent Rosenberg were not intended to enforce his prior orders and the Circuit Court has agreed as stated previously in their Opinion reversing Respondent Rosenberg's preliminary injunction. They were intended to deprive the Petitioner Woods of his right to execute upon his judgments, without due process of law. The acts of Respondent Rosenberg's staff likewise would lose their immunity.



To permit Respondent Rosenberg to tie the state court executions to the Contempt Order would be to permit constant federal meddling in state court actions, with impunity. Case law is clear that the doctrine of judicial immunity does not apply when there is a clear absence of subject matter jurisdiction. Such a case exists here. To hold otherwise would be to eliminate the Bradley exception completely.

The argument could also be made that Respondent Rosenberg was acting merely in excess of jurisdiction. Stump v. Sparkman, supra, illustrates the difference between absence of subject matter jurisdiction and excess of jurisdiction. Lack of jurisdiction is where a probate judge, with jurisdiction



over only wills and estates, would try a criminal case. Excess of jurisdiction is where a criminal court judge would try a defendant of a non-existent crime. The problem is not that Respondent Rosenberg ruled incorrectly. If a bankruptcy case was still in effect, or if a Motion for Contempt had been presented and considered, and a contempt determination made, District Judge Rosenberg's decision, however incorrect, would be immune. The problem is that a state court action was stayed by Respondent Rosenberg simply because there existed personal jurisdiction from a federal proceeding involving the same parties.

The principle has also been enunciated that the question of judicial immunity should not turn on fine questions of jurisdiction. Sullivan v. Kelleher, 405



F.2d 486, 487 (1968); Williams v. Sepe, 487 F.2d 913 (1973); Jacobson v. Schaefer, 441 F.2d 127 (1971); Orlando v. Wizel, 443 F. Supp. 744 (1978). All of the above cited cases turn on the same question of excess of jurisdiction. In other words, the judges sued were judges of general jurisdiction. In contrast the federal courts are courts of limited jurisdiction. The matter had no business even being before the Respondent.

Respondent Rosenberg knew well enough what the limits of his subject matter jurisdiction were. The imposition by Respondent Rosenberg of an injunction against Petitioner Woods from executing upon a valid state court judgment was a usurpation of state judicial power. To hold that Resopondent Rosenberg was acting within his "judicial capacity"



when this Honorable Court has already determined that no subject matter jurisdiction existed, would be pure chicanery. The bankruptcy proceeding which started the case had long since been dismissed. None of that jurisdiction existed. The court's power to enforce its prior orders could not be invoked, because, the Consent Order allowed all parties to pursue their legal actions, and no contempt order had been sought. The temporary restraining order and preliminary injunction did not hold anyone in contempt. Therefore they were not entered to vindicate the Court's authority. There was no subject matter jurisdiction. If there was no subject matter jurisdiction, there could be no judicial capacity. Therefore there can be no judicial immunity.



CONCLUSION

For the foregoing reasons this petition for writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "RW".

Robert Woods, Petitioner

90-531²

Supreme Court, U.S.
FILED

No.

SEP 26 1990

JOSEPH F. SPANIOL, JR.
CLERK

THE SUPREME COURT OF THE UNITED STATES

October Term, 1990

ROBERT WOODS,

Petitioner,

vs.

LOUIS ROSENBERG,
PAULA TEMPLETON, and
SAUNDRA HOPFER,

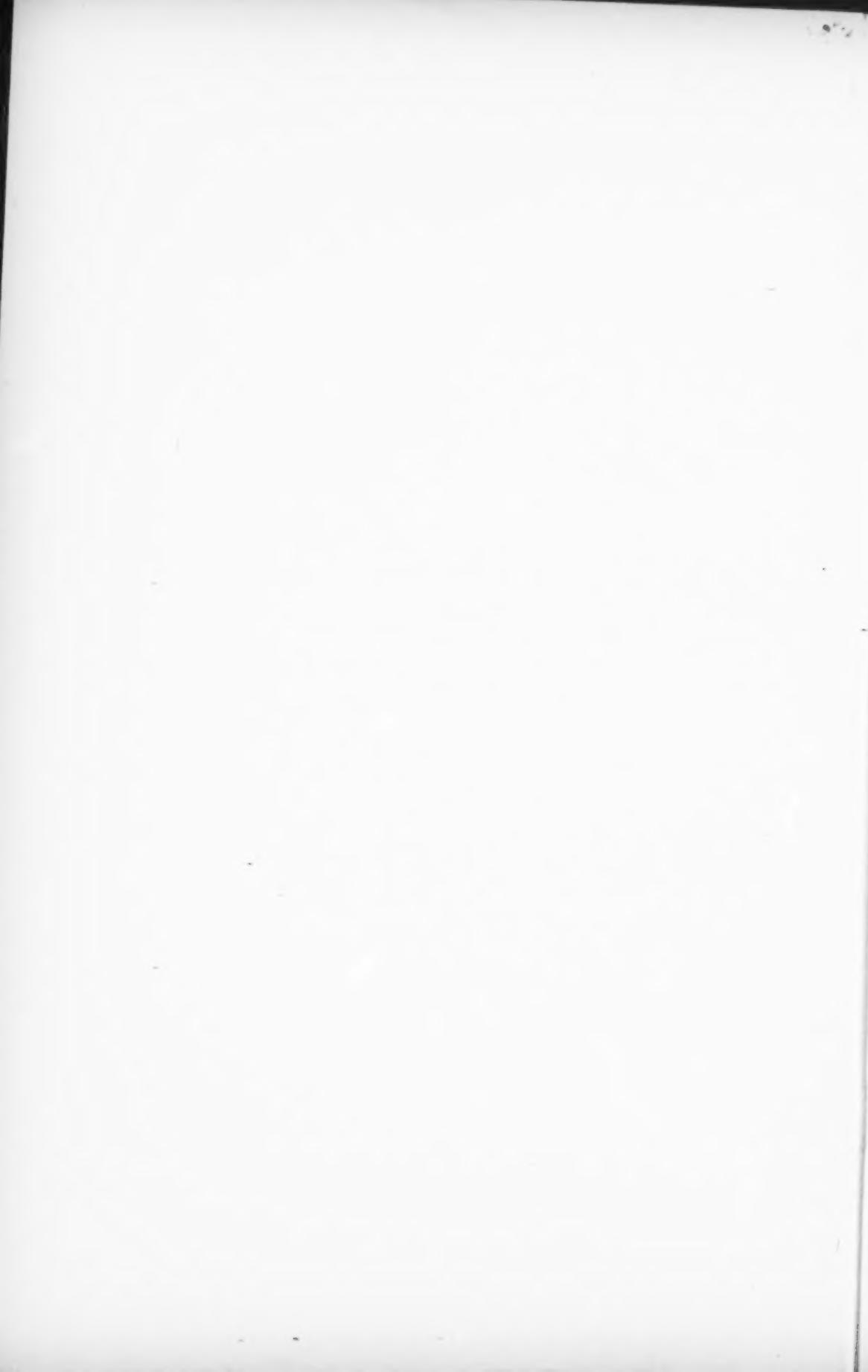
Respondents,

Writ of Certiorari
to the United States Court
of Appeals for the Third Circuit

APPENDIX TO
PETITION FOR WRIT OF CERTIORARI

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**APPENDIX TO
PETITION FOR WRIT OF CERTIORARI**

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Pleas of Allegheny County,
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Order of the United States
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**Response to Motion to Dismiss
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Opinion of the United
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per Greenberg, Scirica,
and Seitz, JJ. A-109



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT WOODS, :
Plaintiff :
: :
: :
vs. CIVIL ACTION NO. 89-2172

LOUIS ROSENBERG, :
PAULA TEMPLETON, and :
SAUNDRA HOPFER, :
Defendants :

M E M O R A N D U M

The defendants have filed a motion to dismiss the plaintiff's complaint with prejudice pursuant to Fed. R. Civ. P. 12 (b) because: (1) the complaint fails to state a claim upon which relief can be granted; (2) the defendants are protected by the doctrines of absolute judicial immunity and quasi-judicial or official duties; and (3) the claims made by plaintiff are vexatious, meritless, frivolous, and malicious. Also pending is plaintiff's motion to compel the

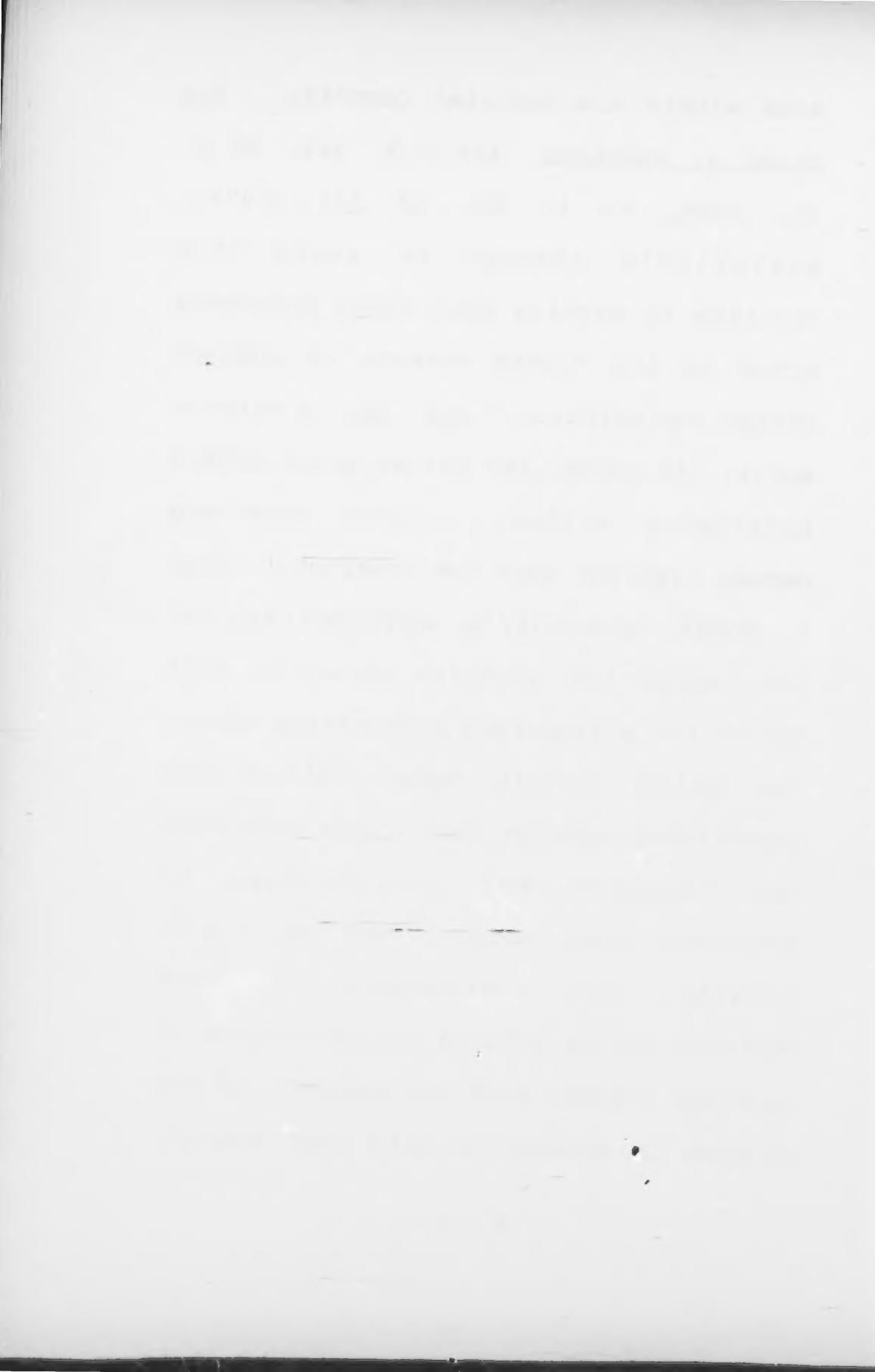


defendant, the Honorable Louis Rosenberg, to submit to a physical and mental examination, and defendant's motion to strike that motion as scandalous and impertinent. Plaintiff's complaint alleges that defendants violated plaintiff's civil rights in connection with rulings made by Judge Rosenberg arising from a bankruptcy action in the United States District Court for the Western District of Pennsylvania. Details on Judge Rosenberg's actions can be found in the unpublished opinion of the Third Circuit dealing with those rulings. See Hudak v. Woods, Nos. 89-3030, 89-3069, 89-3070 (3d Cir. June 28, 1989).

We agree with defendants that under the doctrine of judicial immunity Judge Rosenberg is immune from suit for



acts within his judicial capacity. See Stump v. Sparkman, 435 U.S. 349, 98 S. Ct. 1099, 55 L. Ed. 2d 331 (1978). Plaintiff's attempt to avoid this doctrine by arguing that Judge Rosenberg acted in the "clear absence of subject matter jurisdiction," see id., is without merit. As noted, the matter arose from a bankruptcy action. Judge Rosenberg became involved when the bankrupt, Joseph E. Hudak, plaintiff's estranged son-in-law, moved the district court in that action for a temporary restraining order. The Third Circuit determined in its unpublished opinion that Judge Rosenberg had "related to" jurisdiction to entertain that motion, see 28 U.S.C. 1334(b), and furthermore, retained jurisdiction to enforce the provisions of an order entered with the consent of the parties in connection with that motion,



even after the bankruptcy petition was dismissed. Plaintiff cannot collaterally attach in this court the Third Circuit's determination that Judge Rosenberg did, in fact, have jurisdiction.

We also conclude that quasi-judicial immunity should be extended to defendant, Saundra Hopfer, for actions taken pursuant to her duties as Judge Rosenberg "how to rule on objections"(complaint, 8(a)), and that the Judge has "abdicated his entire judicial decision making powers to his law clerk." (Id., 8 (d)).

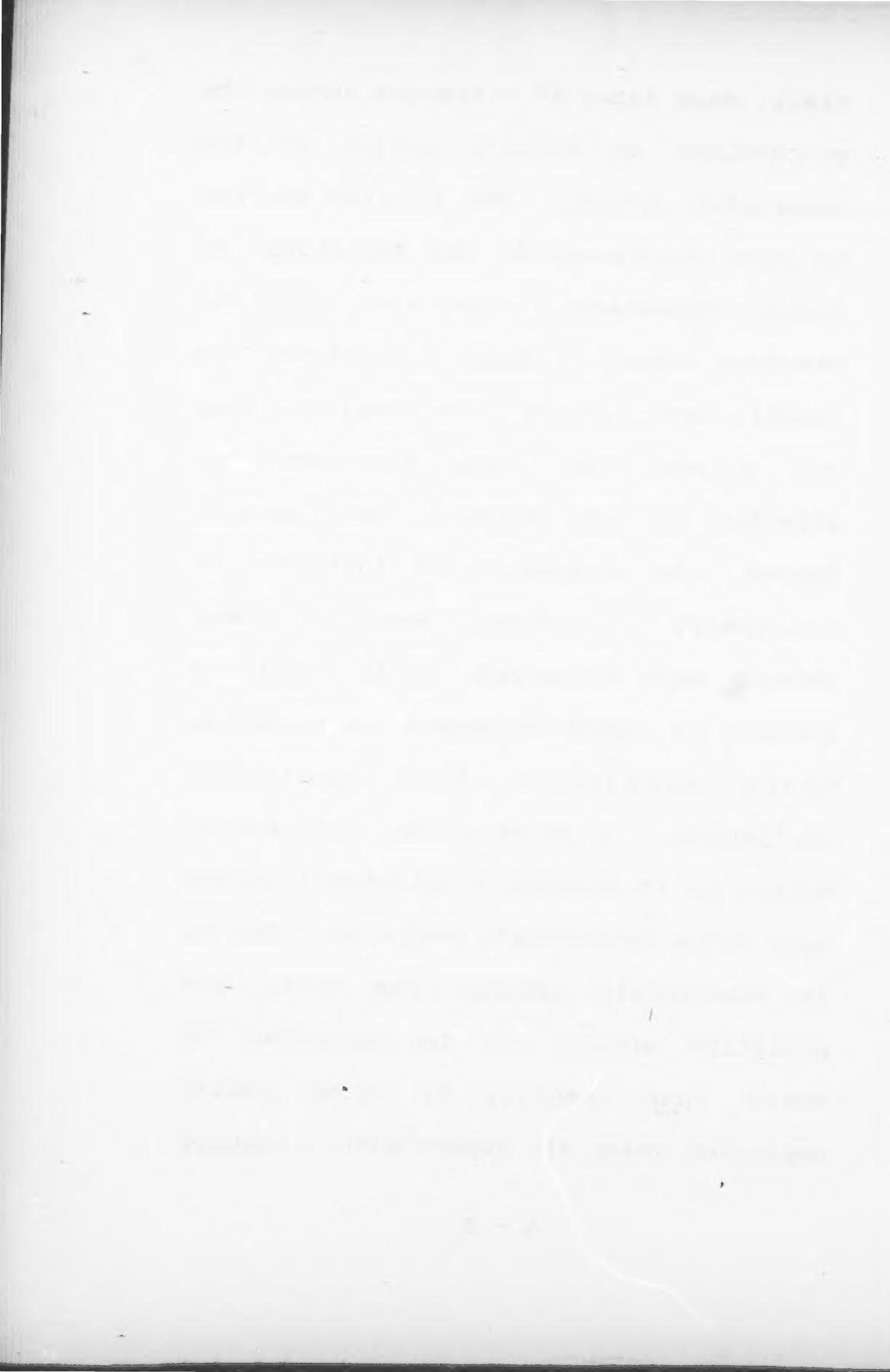
Law clerks perform discretionary acts of a judicial nature which are integrally connected to the court's decision making process. See Oliva v. Heller, 839 F.2d 37 (sd Cir. 1988);

Deferro v. coco, 719 F. Supp. 379 9E.D. Pa. 1989). They are sounding boards and legal researchers for their judges. Oliva, supra. Given the close working relationship between a judge and his clerk, we reject as a matter of law the allegations against Hopfer. The same considerations that support conferring immunity upon a judge, see Forrester v. White, 484 U.S. 219, 226-27, 108 S. Ct. 538, 544, 98 L. Ed. 2d 555, 564-565 (1988), also support absolute immunity for law clerks, despite the obvious difference that a law clerk acts only in an advisory capacity. Accordingly, defendant Hopfer is absolutely immune from suit while assisting Judge Rosenberg in carrying out his judicial functions.

Plaintiff also alleges that defendant Paula Templeton, a deputy



clerk, made faces at witnesses during the proceedings on Hudak's motion in the bankruptcy action, She is also averred to have "influence(d) the decisions" of Judge Rosenberg. (complaint, 11) brackets added). These allegations are insufficient. First, the complaint does not allege that Judge Rosenberg was affected by the alleged face making. Second, the allegation of influence is conclusory. Further, even if these defects were corrected, it is still the actions of Judge Rosenberg in accepting these influences that plaintiff challenges. In other words, this entire action is in essence a collateral attack upon Judge Rosenberg's decision. But he is absolutely immune from suit, and plaintiff should not be permitted to evade that immunity by suing public employees under his supervision. Compare



ennis v. Sparks, 449 U.S. 24, 101 S. Ct.
183, 66 L. Ed. 2d 185 (1980) (private
parties in conspiracy with an immune
state court judge are subject to civil
rights suit).

In connection with plaintiff's motion to compel Judge Rosenberg to submit to a physical and mental examination, we do not believe that the motion has any merit whatsoever and could not be entertained. The motion has, however, been mooted by our above determinations.

We will issue an appropriate order.

William W. Caldwell
United States District Judge

Date: February 1, 1990



O R D E R

AND NOW, this 1st day of February, 1990, upon consideration of the defendants' motion to dismiss the complaint, and plaintiff's motion to compel Judge Rosenberg to submit to a physical and mental examination, it is ordered that:

1. The defendants' motion is granted and the complaint is dismissed with prejudice.
2. The plaintiff's motion is dismissed as moot, along with defendants' motion to strike.
3. The Clerk of Court shall close this file.



William W. Caldwell
United States District
Judge



UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 90-3108

ROBERT WOODS,

Appellant

v.

LOUIS ROSENBERG, PAULA TEMPLETON, SAUNDRA
HOPFER,

On Appeal from the United States District
Court for the Western District of
Pennsylvania (D.C. Civil No. 89-02172)
District Judge: Hon. William W. Caldwell

Submitted Under Third Circuit Rule 12(6)
June 6, 1990

Before: SLOVITER, HUTCHINSON and NYGAARD,
Circuit Judges

JUDGMENT ORDER

After consideration of all contentions
raised by appellant, it is



ADJUDGED and ORDERED that the judgment of
the district court be and is hereby
affirmed.

Costs taxed against appellant.

By the Court,

DOLORES K. SLOVITER
Circuit Judge

Attest:

M. Elizabeth Ferguson

Chief Deputy Clerk

Dated: June 28, 1990



UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDA

)
)
)
)

vs. Civil Action No: 87-1999

ROBERT WOODS, MICHAEL S.
GEISLER and RICHARD
O'BRIAN

)
)
)

CONSENT ORDER

AND NOW COME Joseph E. Hudak,
Esquire, pro se, and Robert Woods,
Michael S. Geisler, and Richard O'Brian,
by their attorney, Yaier Y. Lehrer,
Esquire, and stipulate as follows:

1. On September 18, 1987, nunc
pro tunc September 16, 1987 by Order of
Judge Louis Rosenberg, in The United
States Bankruptcy Court for the Western
District of Pennsylvania, at Case no. 87-
1851 INVOLUNTARY, Joseph E. Hudak filed



and Ex Parte Motion for a Temporary Restraining Order against Robert Woods, Michael S. Geisler, and Richard O'Brian.

2. The parties have agreed and do stipulate that the Motion for a Temporary Restraining Order presently being conducted before the Honorable Louis Rosenberg, Judge of the United States District Court for the Western District of Pennsylvania, shall be withdrawn from the United states Bankruptcy Court for the Western District of Pennsylvania and converted to a Motion for a Preliminary Injunction with continuing jurisdiction before Judge Rosenberg in accordance with the law of injunction and the facts of the case.

3. The parties agree that the evidence presented before Judge Rosenberg



in the Motion for a Temporary Restraining Order is evidence upon which Findings of Fact and Conclusions of Law may be based in spite of the fact that the evidence was not closed and that there was additional testimony which the parties could present and the Court did not hear.

4. The parties have agreed and do consent to an Order directing the following. . .

11. Woods and O'Brian, and agents, servants, employees or associates thereof, shall have no further contact whatsoever with the clients of Hudak for the purpose of those clients' legal matters and shall in no way engage in the practice of law or otherwise interfere with the business of Hudak.

12. Hudak, and agents, servants, employees or associates thereof, shall have no further contact with Woods, Woods or the wife of Woods. Hudak, however, may contact Attorney Yaier Y. Lehrer to present bills owed Hudak by Woods or to discuss with Lehrer matters related to cases or problems between Hudak and Woods.

13. Woods, and agents, servants, employees or associates thereof, shall have no further contact with Hudak, except to discuss legal matters which Hudak has handled for Woods or the wife of Woods.

14. No bond shall be required of any party and each party waives the



requirement of a bond from each other party.

15. Nothing in the Order shall prohibit any party from pursuing any legal remedy for which he is entitled under the law.

16. The prohibition against contact between Woods and Hudak shall take place for three years.

17. This stipulation shall become effective as of the filing of this stipulation from Order of Court

Consent:

Yaier Y. Lehrer 9/30/87

Joseph E. Hudak 9-30-87



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDA,)

Plaintiff,)

v.

CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S.)
GEISLER, and RICHARD)
O'BRIAN,)

Defendant.)

ORDER

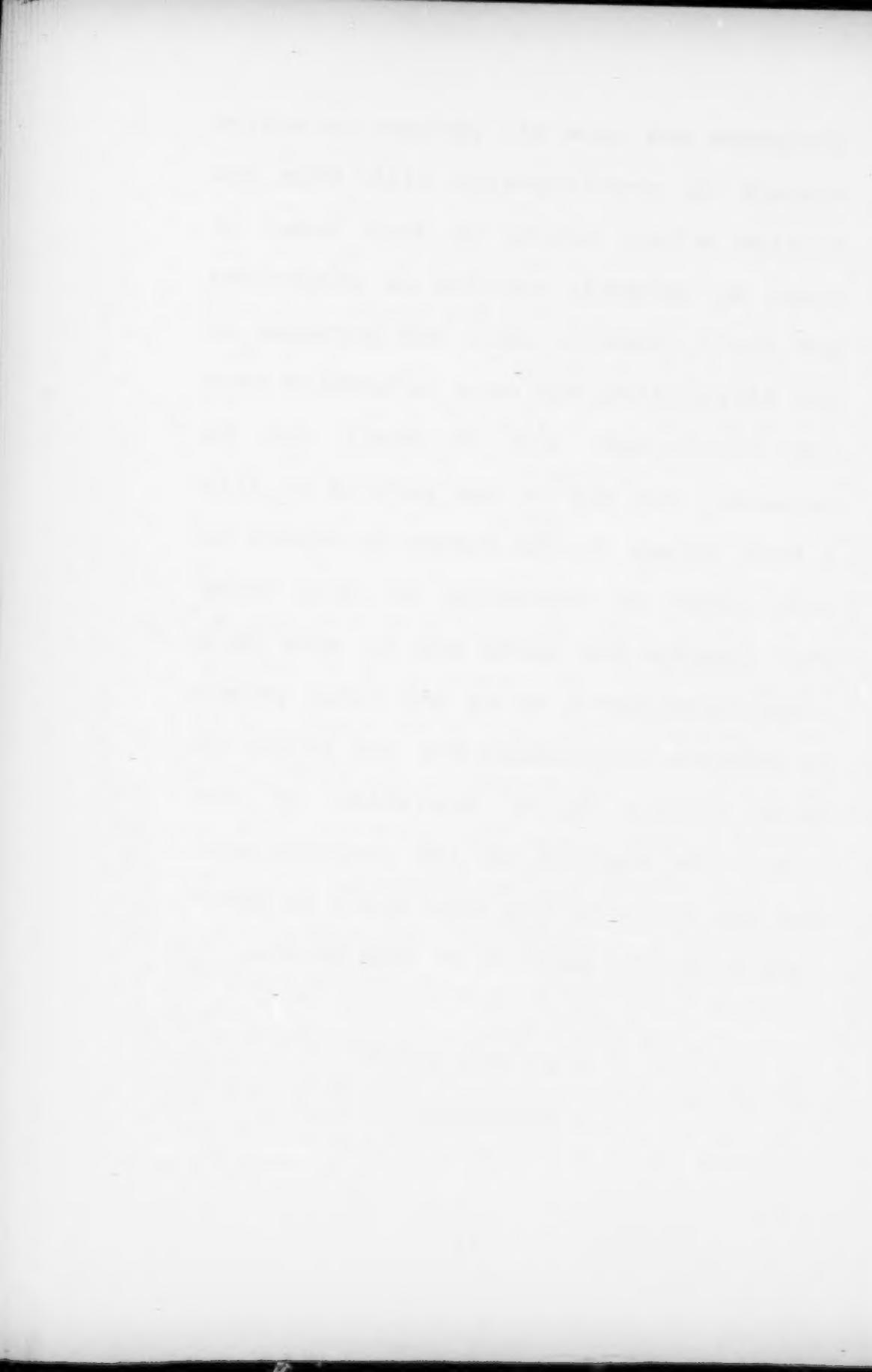
AND NOW, to-wit, this 1st day of October, 1987 in accordance with the Stipulation for an Order of Court accepted by the parties and previously filed in this case, it is hereby ordered and directed that the agreement with its detailed acceptance of obligations and restrictions as contained therein shall govern the parties accordingly to its tenor and shall be binding upon the parties in this action pursuant thereto, their agents, representatives and



assignees and upon all persons in active concert or participation with them who receive actual notice of this order of court by personal service or otherwise; and shall commence until the purposes of the Stipulation and this injunction have been fulfilled; and it shall not be necessary for any of the parties to file a bond unless in the future by resort to this court of violation of this order when demands for bonds may be made by a complaining party or by any other person or persons responsible for any injury or harm caused by a violation of the injunctive mandate or its restrictions; and the costs of the case shall be borne equally by the parties of this action.

BY THE COURT:

ROSENBERG, J.



IN THE UNITED STATES BANKRUPTCY COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: JOSEPH HUDA

87-1851

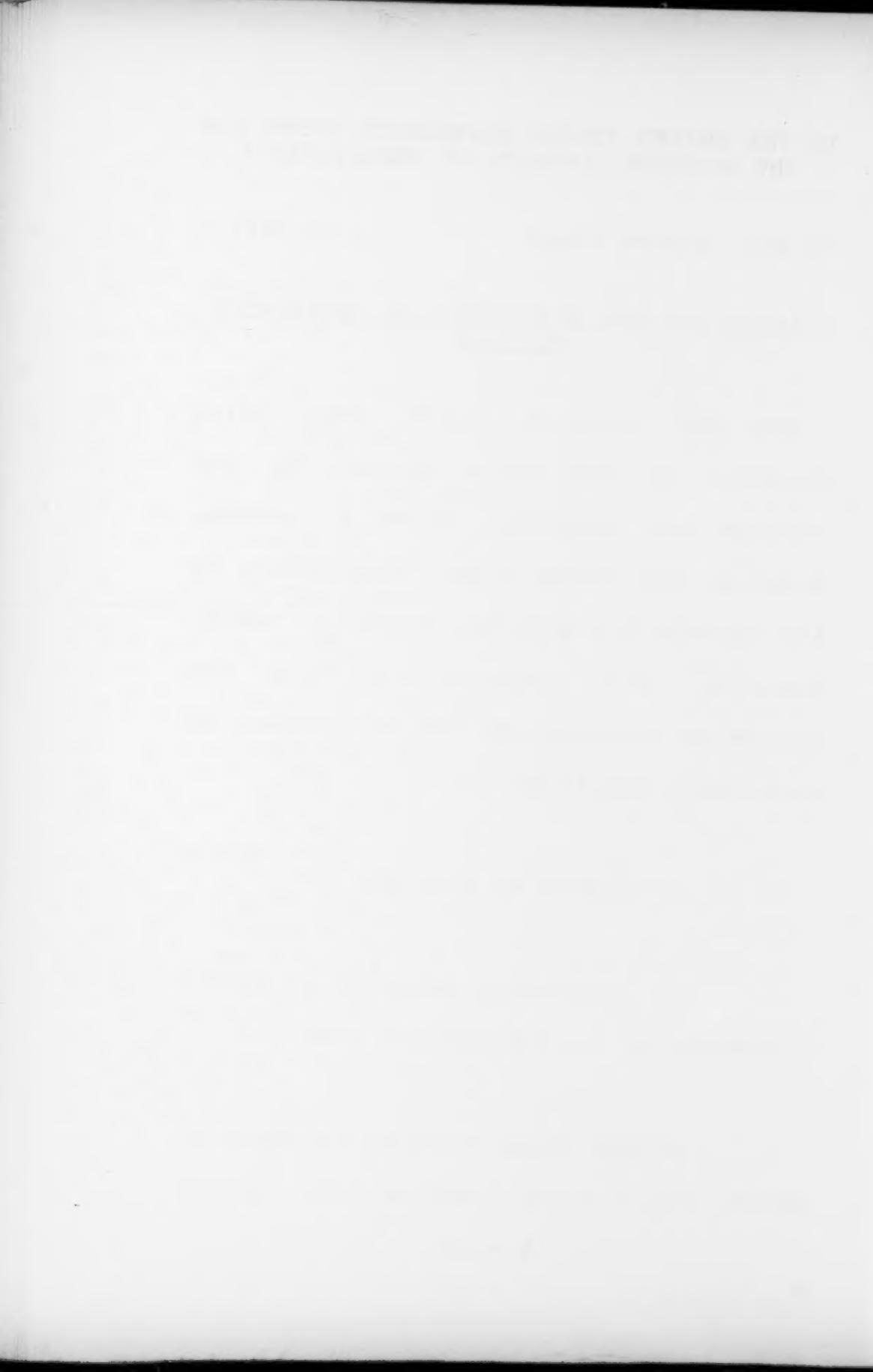
STIPULATION FOR WITHDRAWAL OF BANKRUPTCY
PETITION

AND NOW, come G. Woods, Petitioning Creditor in the above matter, by and through her attorney, YAIER Y. LEHRER, Esquire, and JOSEPH HUDA, Respondent, by and through his attorney ROBERT O. LAMPL, Esquire, and respectfully file the following stipulation for withdrawal of Bankruptcy Petition:

IT IS STIPULATED AS FOLLOWS:

1. The Bankruptcy Petition is hereby withdrawn by the Petitioning Creditor.

2. JOSEPH HUDA forever releases G. WOODS, Petitioning Creditor, her agents,



servants and/or employees from any liability for damages under Section 303 of the Bankruptcy Code.

Robert O. Lampl, Esquire
Attorney for Joseph Hudak

Yaier Y. Lehrer, Esquire
Attorney for G. Woods

APPROVED BY THE COURT

Bankruptcy Judge



IN THE COURT OF COMMON PLEAS OF THE
COUNTY OF ALLEGHENY, PA.

Civil Division

ROBERT WOODS, and) A.D. No. 88-1676
G. WOODS,)
Plaintiff) Judge: Doyle
)
vs.) Court Reporter:
) Ronald Cehelski
SHARON LAVELLE and)
JOSEPH E. HUDAK,)
Defendants)

NON - JURY VERDICT

AND NOW, to-wit this 21st day of June,
1989, we find in favor of Plaintiffs and
against Defendants in the sum of \$782.06
with interest from September 1, 1987, and
we find in favor of Plaintiffs and
against Defendants on the counterclaim.

PER CURIAM

DOYLE, J.



IN THE COURT OF COMMON PLEAS OF THE
COUNTY OF ALLEGHENY, PA.
Civil Division

ROBERT WOODS, and) A.D. No. 88-1675
G. WOODS,)
Plaintiff) Judge: Doyle
)
vs.) Court Reporter:
) Ronald Cehelski
SHARON LAVELLE and)
Defendant)

NON - JURY VERDICT

AND NOW, to-wit this 21st day of June,
1989, we find in favor of Plaintiffs and
against Defendants in the sum of \$653.28
with interest from 10th December, 1987,
and we find in favor of Plaintiffs and
against Defendant on the counterclaim.

PER CURIAM

DOYLE, J.



IN THE COURT OF COMMON PLEAS OF THE
ALLEGHENY COUNTY, PENNSYLVANIA

ROBERT WOODS, and)
G. WOODS,)
Plaintiff)
) CIVIL DIVISION
vs.) No. A.D. 88-1676
)
SHARON LAVELLE)
Defendant)

ORDER OF COURT

(Denying petition to open judgment)
Denied. Date of trial advertised in
P.L.J. which is notice of trial to
Defendants. No Post-Trial Motions filed.

PER CURIAM

DOYLE, J.
July 10, 1988

Adv. in P.L.J. issue of 4-18-89
R.D. 7-10-89



IN THE COURT OF COMMON PLEAS OF THE
ALLEGHENY COUNTY, PENNSYLVANIA

ROBERT WOODS, and)
G. WOODS,)
Plaintiff)
vs.) CIVIL DIVISION
SHARON LAVELLE and) No. A.D. 88-1675
JOSEPH E. HUDAQ,)
Defendants)

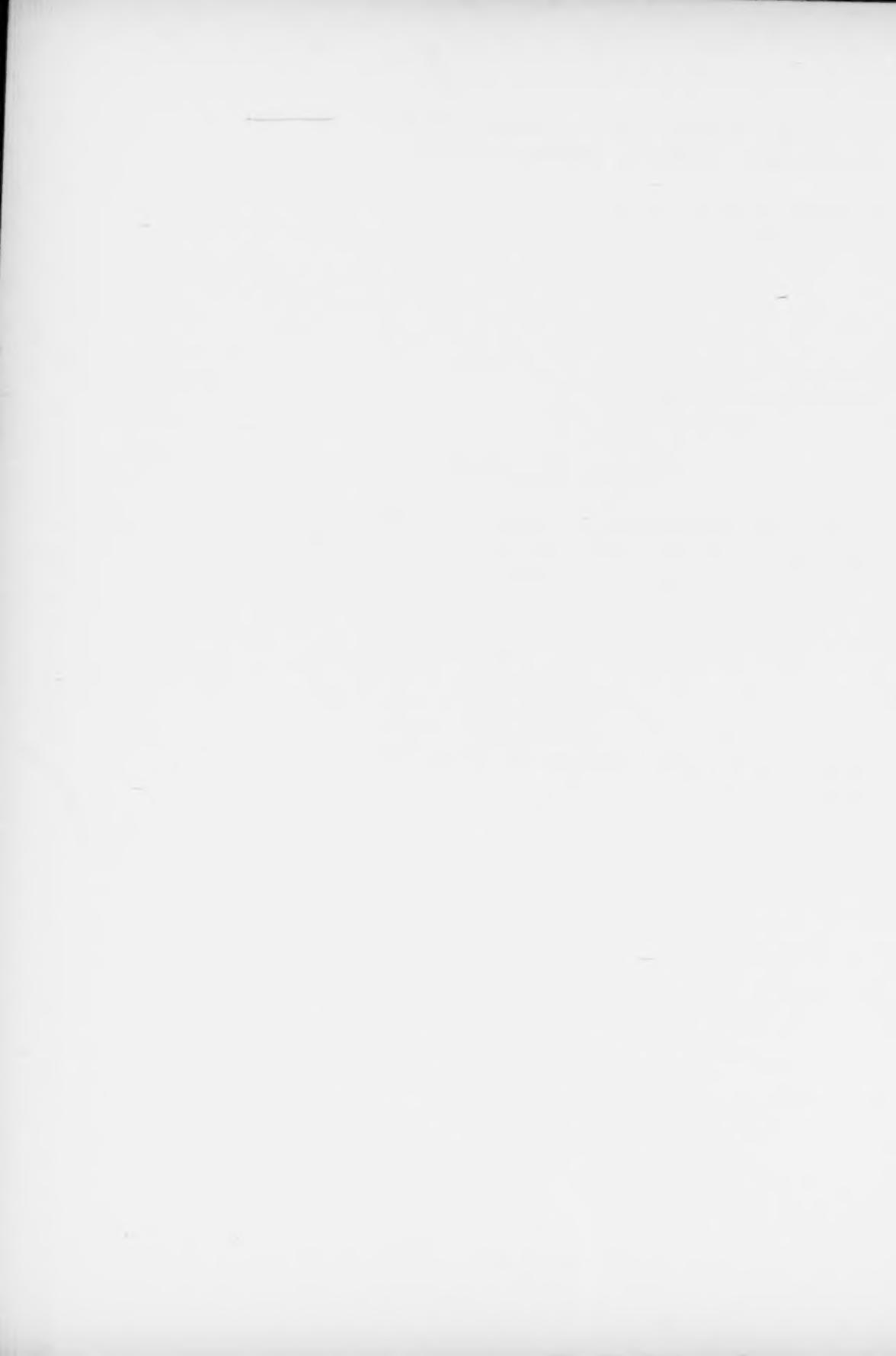
ORDER OF COURT

(Denying petition to open judgment)
Denied. Date of trial advertised in
P.L.J. which is notice of trial to
Defendants. No Post-Trial Motions filed.

PER CURIAM

DOYLE, J.
July 10, 1988

Adv. in P.L.J. issue of 4-18-89
R.D. 7-10-89



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDA^K,)
Plaintiff,)
vs. CIVIL ACTION NO 87-1999)
ROBERT WOODS,)
MICHAEL S. GEISLER,)
and RICHARD O'BRIAN,)
Defendants,)

EMERGENCY MOTION

The plaintiff, Joseph E. Hudak,
respectfully files this emergency motion,
and in support thereof represents the
following:

1. At approximately 11["]30 this morning July 25, 1989, Hudak returned from the federal court library and received a telephone call from his wife.



2. Robert Woods has caused a sheriff to appear at Sharon Hudak's place of employment with two writs of execution. The sheriff had been directed by Woods, and Geisler as his counsel, to take Sharon Hudak's car, a 1984 Buick Century, that Hudak and Sharon had purchased used two years ago when Woods took the car Sharon owned at that time.

3. Woods, through Geisler, obtained judgments and the two writs of execution by utter deceit.

4. As was presented at the contempt trial before Judge Rosenberg last summer, among Woods's many harassments (sic) and interferences were two lawsuits Woods filed against Hudak and Sharon in the arbitration division of the Court of Common Pleas of Allegheny County at AD

1675-1988 and AD 1676-1988. In one of these lawsuits, Woods sued Hudak and Sharon for a parking ticket and for damages he alleged Sharon caused to her own car, which was titled in Sharon's mother's name. In the other lawsuit, Woods sued Sharon because, he claimed, she should have reimbursed him for health insurance he provided her on his group health insurance plan. Woods lost both of these lawsuits.

5. Nonetheless, Woods appealed both of these lawsuits to non-jury trials. Woods did not, however, give Hudak or Sharon any notice that he had filed the appeals. The first notice Hudak ever received was a letter from Geisler stating that the cases had been appealed and were scheduled for trial on July 21, 1989.



6. In fact, the trials were not scheduled for July 21, 1989 but for June 21, 1989. When Hudak and Sharon failed to appear because of this incorrect notice of date provided by Geisler, Woods took judgments against them for \$653.78 at AD 1675-1988 and for \$782.06 at AD 1676-1988.

7. Hudak appealed both of these judgments to the SUperior Court of Pennsylvania. Hudak cannot, however, deposit into court the \$1438 plus 20 plus costs required for a supersedeas or stay of execution pending appeal.

8. Woods, therefore, has determined to take the car because he knows the car is essential to Hudak's business and life:



a. Hudak must use the car to attend a large number of preliminary hearings and other court appearances in magistrates' courts outside downtown Pittsburgh;

b. Hudak uses the car for transportation to and from work:

3. (sic) Hudak's normal functioning in life, and that of his wife and children, requires the use of the car.

9. Woods's attempt to take the car is a direct attempt to interfere with Hudak's business and to violate the Stipulation and Order of this Court dated



October 1, 1987 and the Order of this Court dated December 22, 1988.

10. Woods also threatens to take personal belongings of Sharon and Hudak that are essential to Hudak's business and functioning in life.

11. These attempts would also violate the Stipulation and Order of this Court dated October 1, 1987 and the Order of this Court dated October 1, 1987 and the Order of this Court dated December 22, 1988 as affirmed on appeal.

12. This Court has the power to stay any state court action in order to effect this Court's orders.

WHEREFORE, the plaintiff respectfully



requests a stay of execution on the Woods
judgments cited above.

Respectfully submitted,

JOSEPH E. HUDA



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDA,)
Plaintiff,)
vs. CIVIL ACTION NO. 87-1999)
ROBERT WOODS, MICHAEL S.)
GEISLER and RICHARD O'BRIAN)
Defendants.)

ORDER OF COURT

AND NOW, TO-WIT, this 26th day of July, 1988 at 1:34 o'clock p.m., it appears to this court, after review of the Movant's Joseph E. Hudak, July 25, 1989 Emergency Motion and Affidavit in support thereof, that irreparable injury will be done to the Movant if immediate action is not taken. This matter is a continuation of and connected with Hudak v. Woods, et al., Civil Action No. 87-1999 and affirmed by the Court of Appeals on June 28, 1989. The Movant alleges



that as a result of the misrepresentations of defendants, Robert Woods and Michael S. Geisler, made to state officials, a default judgment was wrongly entered against the Movant and that a Writ of Execution was entered. He further alleges that he has appealed this matter to the proper state forum, but does not have the necessary funds for a supersedeas or stay of execution pending his appeal and execution of the Writ will occur if immediate action is not rendered.

In his motion, the Movant certified that he made hand delivery of the motion to the offices of Charles F. Scarlata, Michael Geisler, and Norma Chase. In anticipation of this order and the hearing thereon, all counsel of record were notified by telephone on July



25, 1989 that a hearing on this matter had been scheduled for July 27, 1989 at 10:30 a.m. in Courtroom 7 in the United States Courthouse Building.

It appears to this court that irreparable harm will be done to the Movant if action is not taken, and therefore, Robert Woods and Michael Geisler are hereby ordered to direct the Allegheny County Sheriff's Office to cease and desist from any execution of judgment in the actions at Allegheny County Court of Common Pleas Nos. 1675-1988 and 1676-1988 until this matter is heard by this court at the hearing scheduled for July 27, 1989 and until further Order of this court.

It appearing that no harm of any sort will result, no security will be



required, but if it should appear that harm will result, such security will be required as the court deems appropriate. This order will expire in ten (10) days unless an extension is granted for good cause.

Louis Rosenberg
District Judge

cc:

Counsel of Record



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDA^K,)
Plaintiff,)
vs. CIVIL ACTION NO. 87-1999)
ROBERT WOODS, MICHAEL S.)
GEISLER and RICHARD O'BRIAN))
Defendants.)

ORDER OF COURT

AND NOW, TO-WIT, this 28th day of July at 3:00 o'clock P.M. after a hearing was held on this matter on July 27, 1989, it appears to this court, after a review of all the evidence that Robert Woods and Michael Geisler deliberately deceived Joseph Hudak and acted in violation of this court's Orders of September 30, 1987, October 1, 1987, and December 22, 1988, and for the reasons in the foregoing opinion and the July 25,



1989 order, immediate and irreparable harm to the plaintiff will occur if action is not taken. Therefore, Robert Woods and Michael Geisler are hereby ordered to direct the Allegheny County Sheriff's Office to cease and desist from any execution of judgment at Allegheny County Court of Common Pleas Nos. 1675-1988 and 1676-1988 until further order of this court, pending resolution of the plaintiff's appeal in the state court.

It appearing that no harm of any sort will result, no security will be required, but if it should appear that harm will result, such security will be required as the court deems appropriate. This order will expire in ten (10) days unless an extension is granted for good cause.



Louis Rosenberg
District Judge

cc:

Counsel of Record



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDA^K,)
Plaintiff,)
vs. CIVIL ACTION NO. 87-1999)
ROBERT WOODS, MICHAEL S. -)
GEISLER and RICHARD O'BRIAN))
Defendants.)

MEMORANDUM

Although not necessary, this Memorandum is issued in support for the Temporary Restraining Order issued July 27, 1989 in the above-entitled case. The motion for the Temporary Restraining Order actually is not the initiating cause of action for the instant matter. The basis and cause of it all lies in the action at 87-1999, Hudak v. Woods, et al. That action was one in which this court became involved in an injunctive proceeding which originally appeared to be innocent enough in all exceptions, but



which at the hearing on the injunctive proceeding broadened out in all dimensions in such a way as to reveal activities, intentions, ignorances and innocence of people to an amazing extent and one in which hundreds of innocent, advertising invited, bankruptcy and divorce litigants had been embroiled in a personal feud of which they were innocent and entirely blameless. It was for the innocent parties that the equitable functioning of the court took over to protect the innocent, to repair as much as possible of the harm that had been done and to make matters right wherever possible.

An injunctive order was entered into by the parties and upon the agreement by the parties, it was entered into a decree. The decree was almost

immediately crushed by the defendants in an effort to show their contempt for the court and the law. A Master was appointed after the parties were given ample time to purge themselves of contempt. An appeal was made to the United States Court of Appeals for the Third Circuit which affirmed this Court's Order with direction for certain modifications with which this court has complied.

However, before the time had elapsed for the parties to file application for certiorari to the Supreme Court, continuance of contemptuous matters appeared on the horizon when a motion was filed by the plaintiff so indicating. On July 25, 1989, an Emergency Motion was presented by the plaintiff to stay an Execution Writ in

state court by the defendants. In order to process this matter in the way it was presented and according to due process of law, this court issued a Temporary Restraining Order and scheduled an emergency hearing for July 27, 1989 in an effort ascertain what processes could be applied. At the emergency hearing of this matter, I determined that a Temporary Restraining Order be granted in accordance with Rule 65 (b) in order to give all the parties proper processes and possible remedies in accordance with law. This is the result.

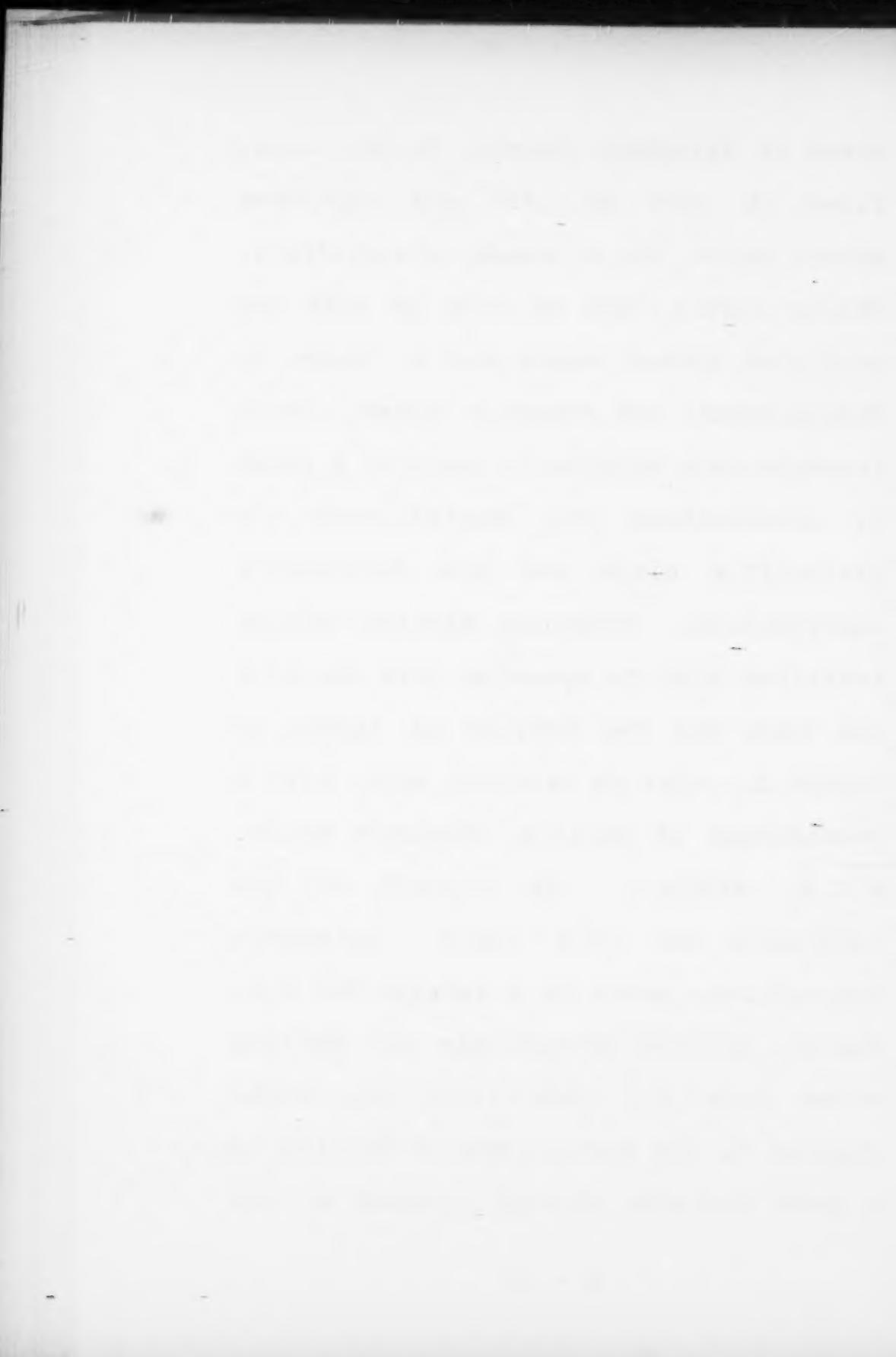
On July 25, 1989, all attorneys of record were notified by telephone, in addition to hand delivery of court orders by a law intern of this court, of a hearing scheduled for July 27, 1989, at 10:30 a.m. At the hearing, Yaier Lehrer,

the first time. — I have been thinking much about the question of the
limits of the species, and I am beginning to think that the limits of
species are not so much in the number of individuals as in the number
of individuals of the same species which can live together in a given
area. — This is a very difficult question, and I have not yet
arrived at any definite conclusion. — I have been reading a great deal
of the literature on the subject, and I have found that there is
a great variety of opinions. — Some people think that the
limits of species are determined by the number of individuals
of the same species which can live together in a given
area. — Others think that the limits of species are determined
by the number of individuals of different species which can
live together in a given area. — Still others think that the
limits of species are determined by the number of individuals
of the same species which can live together in a given
area, and that the number of individuals of different species
which can live together in a given area is not important.
— I have not yet arrived at any definite conclusion, but I
have found that the question is very difficult, and that it
is not easy to arrive at a definite conclusion.

attorney for Robert Woods, a defendant, filed a Motion to Withdraw his appearance. It was not opposed by either side and the motion was granted. Robert O. Lampl, attorney for the plaintiff Joseph E. Hudak, filed a Motion to Withdraw his appearance and it was temporarily granted until the written motion is filed. However, he was requested to stay in court to advise defendant Robert Woods who then declared his intention of representing himself. That he did. John Silvestri, who had entered his appearance for Robert Woods, failed to show.

From the evidence as a whole presented at this hearing, I find that the plaintiff Joseph Hudak did not receive notice of the appeal of the two law suits filed in the Court of Common

Pleas of Allegheny County, Pennsylvania,
filed at 1675 AR 1988 and captioned
Robert Woods, and G. Woods, plaintiffs v.
Sharon Lavell, and at 1676 AR 1988 and
captioned Robert Woods and G. Woods v.
Sharon Lavell and Joseph E. Hudak. These
lawsuits were originally heard by a panel
of arbitrators who denied both the
plaintiff's claim and the defendant's
counterclaim. Defendant Michael Geisler
testified that he appealed this decision
and sent the two notices of appeal to
Joseph E. Hudak by ordinary mail, with a
certificate of mailing, pursuant to Pa.
R.C.P. 440(a). In support of his
testimony on this issue, defendant
Exhibit G-1, which is a receipt for U.S.
Postal Service Certificate of Mailing
dated June 21, 1988 (sic) 21, 1988.
Stapled to the Certificate of Mailing is
a cash register receipt stamped by the



Post Office and dated June 21, 1988 showing what appears to be a total amount received of \$.90. The front of the Certificate of Mailing shows that Michael Geisler did mail something to Joseph E. Hudak at his residence. However, this is not attached to any letter or other document to show what was mailed to Hudak at this time. This court has nothing tangible before it to determine, what if anything was actually in the envelope mailed to Hudak. This court has only Geisler's self-serving statements as to what he says he mailed to Hudak over a year ago. Both the plaintiff Joseph Hudak and his wife, Sharon Lavelle Hudak, testified that they received no notice of the appeal. From the evidence before me and the lack of evidence presented by Michael Geisler, it is my finding of fact

that Joseph Hudak did not receive notice of the appeals.

Because I find that Hudak had no notice of the appeal, I must now consider the notice of trial date and time for the appeal that was afforded Hudak. Geisler contends that Hudak received adequate notification of the non-jury trial through publication in the Pittsburgh Legal Journal, and that it was his duty as an attorney, who had knowledge of an appeal pending, to make it his business to check this publication to see when the case was coming up for trial. In support of his contention, Geisler has entered as defendant's Exhibit G-2, page 2 of the Pittsburgh Legal Journal dated Tuesday, April 18, 1989. This is a publication of notice of non-jury trials of arbitration appeals in the Common Pleas Court Civil Division before Robert A. Doyle in

and then we can't have this same kind of growth, which

is something we'd like to see.

And we've got to do it in a way that's sustainable,

and that's what I think we're going to do.

So I think that's the kind of thing that's going to happen.

And I think that's the kind of thing that's going to happen.

And I think that's the kind of thing that's going to happen.

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And I think that's the kind of thing that's going to happen.

And I think that's the kind of thing that's going to happen.

Courtroom 617. In the middle column at the bottom of the page, it can be seen that six cases were scheduled for trial on Wednesday, June 21, 1989. Both cases are listed for trial, contain the names of attorneys of record and the case captions. It is noted by this court that the upper case letters in this print measure 3/32 of one inch and the lower case letters measure 1/16 of one inch in height. The type is so small that it would not catch the attention of some one merely looking through this publication without knowing that he or she was looking for a particular action. Based on my first finding that Hudak did not receive notice of appeal from Geisler, and the manner of notification of trial date just described, I make an additional finding that Joseph Hudak could not possibly have received adequate notice of

the time and date for his trial. Without notice of a pending appeal, it is impossible to expect that Hudak would undertake the tedious task of reading all of the jury trials scheduled when he had no reason to believe that he had a duty to do this because he had no notice that an appeal had been taken.

In conjunction with the above evidence, I also consider the June 16, 1989 letter of the defendant Michael Geisler to Judge Robert Doyle and carbon copied to Hudak. A copy of this letter was attached to Michael Geisler's July 27, 1989 response to Emergency Motion as Exhibit C. There is also another marking which shows this letter to be Exhibit A. This letter was not entered as an exhibit at the hearing. This letter is addressed to Judge Robert Doyle and contains the

caption, names and numbers of the two cases that are the subject of this hearing and emergency order. To avoid confusion, the text of the letter is set forth in this opinion as follows:

Dear Judge Doyle:

This letter is a request that your Honor consider recusing himself from the consideration of the non-jury trials of the above two civil actions. Several years ago, the ex-partner of my client, Robert Woods, one Anthony J. Pivirotto physically assaulted you in the Three Lions Tavern.

The two non-jry trials are scheduled before your Honor on Wednesday July 21, 1989. (emphasis added.)

I find that the only notice of appeal or notice of trial received by Hudak was the copy of the letter written by Geisler to Judge Doyle on June 16, 1989 only two working days before the trial, and this letter contained an incorrect trial date. Notice of the trial was in the Pittsburgh

Legal Journal on April 16, 1989. Yet, Geisler waited 60 days to write his letter on June 16, 1989. I find that the timing of the letter, combined with the incorrect date contained therein and viewed in light of past actions by Woods and Geisler, was deliberately orchestrated to deceive Hudak to prevent him from appearing at trial. I find that Geisler's actions were a continuation of the conduct specifically prohibited by this court's Orders of September 30, 1987, October 1, 1987 and December 22, 1988 as affirmed by the United States Court of Appeals for the Third Circuit on June 28, 1989. Therefore, Woods and Geisler will be ordered to direct the Allegheny County Sheriff's Office from executing a judgment in these cases until further order of this court.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDA,)
)
Plaintiff,)
)
vs. CIVIL ACTION NO. 87-1999
)
ROBERT WOODS, MICHAEL S.)
GEISLER and RICHARD O'BRIAN)
)
Defendants.)

MEMORANDUM ORDER

This Preliminary Injunction was processed under unusual circumstances when a general injunction was granted by this court, a Master appointed, and rules outlined for the purpose of controlling the defendants' action from molesting the plaintiff in any way. The matter has already been before the Court of Appeals on the original injunction and this order is intended merely to continue the injunctive action of this court on December 22, 1988, as the same was affirmed by the Court of Appeals on June

1. 1922. 1923. 1924. 1925. 1926. 1927. 1928.

2. 1922. 1923. 1924. 1925. 1926. 1927. 1928.

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9. 1922. 1923. 1924. 1925. 1926. 1927. 1928.

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11. 1922. 1923. 1924. 1925. 1926. 1927. 1928.

12. 1922. 1923. 1924. 1925. 1926. 1927. 1928.

13. 1922. 1923. 1924. 1925. 1926. 1927. 1928.

14. 1922. 1923. 1924. 1925. 1926. 1927. 1928.

28, 1989, and is intended to hold the matter in abeyance so that the Master may proceed as he was directed and instructed to do. Because of the uniqueness of this matter, it is to be considered as a connective and holding process fro the enforcement of the original injuctions of this court dated September 30, 1987 and October 1, 1987.

The matter before this court is the plaintiff's August 4, 1989 Motion and Application for a Preliminary Injunction. On July 27, 1989, a full hearing was held to determine the Plaintiff's July 25, 1989 Motion for Temporary Restraining Order. After allparties had the opportunity to present evidence, this court issued a Temporary Restraining Order on July 28, 1989. For the reasons articulated in this court's July 28, 1989

Memorandum and Order, and because there was no response from any of the defendants to the plaintiff's August 4, 1989 Motion and Application for a Preliminary Injunction, the plaintiff's Motion is hereby granted and this court's July 28, 1989 Temporary Restraining Order is hereby converted into a Preliminary Injunction until further order of this court.

Dated: August 8, 1989

Paul A. Simmons
District Judge
for Louis
Rosenberg

CC:

Counsel of Record

IN THE COURT OF COMMON PLEAS OF THE
ALLEGHENY COUNTY, PENNSYLVANIA

ROBERT WOODS, and CIVIL DIVISION
G. WOODS,
Plaintiff No. 1675 A.R. 1988
vs. No. 1676 A.R. 1988

SHARON LAVELLE
Defendant

* * * * * OPINION IN SUPPORT OF
ORDER PREVIOUSLY
FILED

ROBERT WOODS, and August 11, 1989
G. WOODS,
Plaintiff DOYLE, J.

vs.

SHARON LAVELLE
Defendants

Copies sent to:

Michael S. Geisler, Esq.
417 Allegheny Building
Pittsburgh, PA 15219

Joseph E. Hudak, Esq.
P.O. Box 23423
Fourth Avenue Station
Pittsburgh, PA 15222

OPINION

DOYLE, J.

On 26 January 1988, District Justice Jacob Williams entered judgment in favor of Plaintiffs Robert Woods and Geraldine Woods against Defendant Sharon Lavelle. Counsel for Defendant, Joseph E. Hudak, Esq. appealed from that judgment to the Common Pleas Court on 24 February 1988. Michael S. Geisler, Esq. counsel for Plaintiffs, after rule issued, filed a Complaint, averring that, after demand, a loan of money made by Plaintiffs to Defendant had not been repaid. On 23 May 1988, Arbitrators, appointed and acting under 42 Pa. C.S. 7361 (Compulsory Arbitration), entered an Award for Defendant on Plaintiffs' claim and an award for Plaintiffs on Defendant's counterclaim. On 21 June 1988, Plaintiffs appealed from the award under

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the 2000-2001 fiscal year, the government allocated \$1.2 billion to the National Science Foundation, which is a 10 percent increase over the previous year. This increase is part of a larger budget proposal that would increase the total amount of money available for science and technology research by 10 percent. The proposal also includes increases in funding for other federal agencies, such as the National Institutes of Health and the Department of Energy. The proposal is currently being considered by Congress and is expected to be voted on in the coming months.

42 Pa. C.S. §7361 (d) (Appeal for trial de novo).

The de novo trial was advertised on 18 April 1989 in the Pittsburgh Legal Journal (PLJ), the official newspaper for the judicial system in Allegheny County (V Judicial District), indicating the names of counsel and the names of all parties and indicating that the case was to be tried on 21 June 1989.

On 21 June 1989, Plaintiff and Plaintiffs' counsel appeared in Court at 0900 hours, ready to try the case. Defendant did not appear, nor did Defendant's counsel (her husband) appear in Court. The case was called twice in the hallways adjacent to the Courtroom but Defendant did not respond to the call for trial. Witnesses did not appear for



Defendant. Defendant's counsel did not appear. The witness for Plaintiffs, being sworn, testified that: Plaintiffs had made a loan in the sum of \$653.28 to Defendant; Plaintiffs demanded payment from Defendant when the loan was due; payment was refused by Defendant; the instant litigation was commenced. On June 21 1989, we entered an Order finding in favor of Plaintiffs and against Defendant in the sum of \$653.28, with interest from 10 December 1987. We found in favor of Plaintiffs and against Defendant on the Counterclaim.

On 3 July 1989, Defendant filed a Petition to Open Judgment (sic). As of July 3 1989, A Motion for Post-Trial Relief had not been filed and judgment had not been entered.



The trial date had been properly advertised and Defendant and her counsel had legally binding notice of the date, time, and place of that trial. Accordingly, on 10 July 1989, we denied the "Petition to Open Judgment."

On 11 July 1989, Plaintiffs entered judgmentagaisnt Defendant and eo die filed a praecipe for a Writ of Execution against Defendant.

On 21 July 1989, Defendant filed an appeal to the Superior Court of Pennsylvania. The appeal is taken "from the (sic) verdict dated 21 June 1989 and from the Order dated 10 July 1989 denying 'Plaintiffs' (sic) petition to open."

Two verdicts - one on the claim and one on the counterclaim - were entered by



the Order dated 21 June 1989. We are unable to determine the (sic) verdict which Defendant is contesting.

The "Plaintiff" has not filed any Petition to Open Judgment, yet Defendant asserts, in her Notice of Appeal (to the Superior Court), that she is appealing from an Order dated 10 July 1989 denying such a Petition.

Defendant did not file any Motion for Post-Trial Relief under Pa. R.C.P. §227.1 (Post-Trial Relief), ergo, she has not preserved any points for consideration by any Court. See §227.1(b)(2). The time for filing such motion expired ten days after June 21, 1989.

A trial court is not permitted to further consider any matter (with

J

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PUBLISHER'S NOTE

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT WOODS, :
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 :

Plaintiff, :
 :
 :

vs. C.A. No. 89-2182

 :
 :
LOUIS ROSENBERG, :
PAULA TEMPLETON, and :
SAUNDRA HOPFER, :
 :
 :

Defendants, :
 :
 :

COMPLAINT

AND NOW COMES the Plaintiff, ROBERT WOODS, and files this Complaint, of which the following is a statement:

1. The Plaintiff, ROBERT WOODS, is a citizen of the United States of America and a resident of the City of Pittsburgh, County of Allegheny, and Commonwealth of Pennsylvania.

2. The Defendants, LOUIS ROSENBERG, is an adult individual whose office is located at 9th Floor, U.S. Post Office and Courthouse, Pittsburgh, Allegheny County, Pennsylvania 15219, and is a duly appointed Judge of the United States District Court for the Western District of Pennsylvania.

3. The Defendant, SAUNDRA HOPFER, is an adult individual whose office is located at 9th Floor, U.S. Post Office and Courthouse, Pittsburgh, Allegheny County, Pennsylvania 15219, and is

the law clerk for the
Defendant, LOUIS ROSENBERG.

4. The Defendant, PAULA TEMPLETON, is an adult individual whose office is located at 9th Floor, U.S. Post Office and Courthouse, Pittsburgh, Allegheny County, Pennsylvania 15219, and is the chief deputy for the Defendant, LOUIS ROSENBERG.

5. This action arises under the United States Constitution, particularly under the provisions of the Fifth, Sixth and Fourteenth Amendments of the Constitution of the United States, and under federal

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and the *Chlorophyceae* were
the most abundant, especially
in the upper part of the marsh,
where they formed dense patches
of 100 m. square. *Cladophora*
was also very abundant,
especially near the head of the
valley, where it was found
in great quantities, forming
large mats on the surface of
the water.

The *Chlorophyceae* were
followed by *Ulothrix*, which
was found in patches of 100 m.
square, and was especially
abundant in the upper part of
the valley, where it was found
in great quantities, forming
large mats on the surface of
the water.

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are now available from the same source

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him how to rule on objections made by the attorneys in this case.

- b. None of the conversations between Judge ROSENBERG and his law clerk are placed on the record, even though they frequently interrupt the proceedings.
- c. While in the Judge's chambers, the law clerk, SAUNDRA HOPFER, has been seen shouting and screaming at Judge LOUIS ROSENBERG, in such a manner as to convince a reasonable person that she was telling the Judge exactly what how he was to rule on a case.
- d. It is believed that because of Judge LOUIS ROSENBERG's physical



and mental infirmity caused by his advanced age, the decisions of Judge LOUIS ROSENBERG are completely determined by his law clerk, SAUNDRA HOPFER, and thus Judge LOUIS ROSENBERG, has abdicated his entire judicial decision making powers to his law clerk.

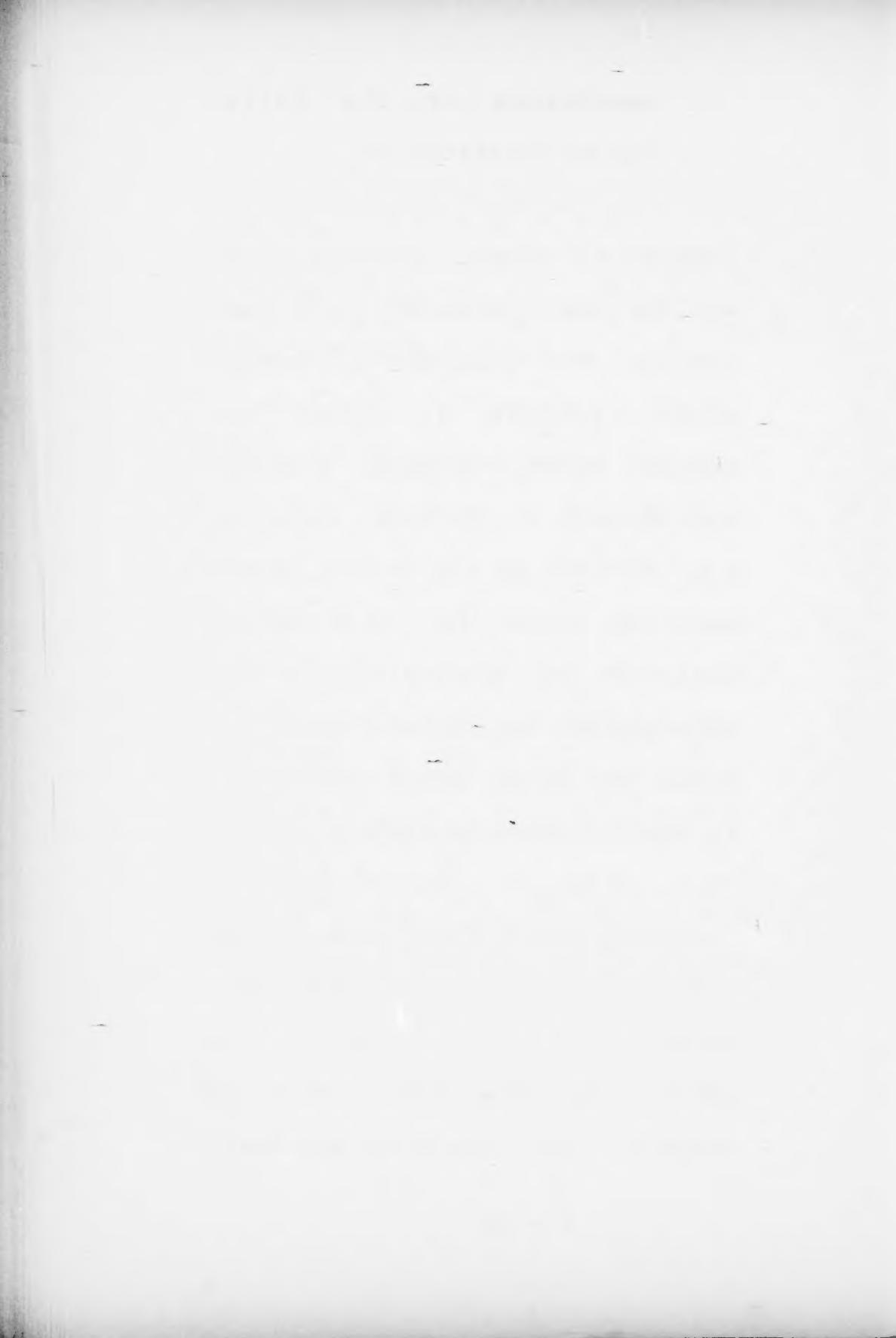
9. The physical and mental disability of the Judge LOUIS ROSENBERG has prevented the Defendant, ROBERT WOODS, from obtaining a fair hearing by a mentally and physically competent judge, and thus has deprived the Defendant, ROBERT WOODS, of his right to due process guaranteed by the Fifth and Fourteenth



Amendments of the United
States Constitution.

10. JOSEPH E. HUDA, an individual who is the Plaintiff in a case versus the Plaintiff, ROBERT WOODS, (JOSEPH E. HUDA, vs. ROBERT WOODS, RICHARD O'BRIEN, and MICHAEL S. GEISLER, filed at C.A. 87-1999 in the United States District Court for the Western District of Pennsylvania) has improperly consulted with the staff of Judge LOUIS ROSENBERG, in the following manner:

a. JOSEPH E. HUDA, has communicated with Judge LOUIS ROSENBERG, through his staff concerning the above case, and specifically in January, 1989, was seen and heard



on the 10th Floor of the U.S. Post Office and Courthouse, in Pittsburgh, Pennsylvania discussing the above case with SAUNDRA HOPFER, the law clerk to Judge LOUIS ROSENBERG.

b. It is believed and averred that JOSEPH E. HUDAk, was heavily consulted by the staff of Judge LOUIS ROSENBERG, when they prepared the Judge's December 22, 1988 Contempt Order and Opinion in the above-referenced case at C.A. 87-1999. The phrasing of the Opinion borrows so heavily from the writing style of JOSEPH E. HUDAk as manifested in HUDAk's own motions filed in that case, as to cause a reasonable person to



believe that JOSEPH E. HUDA
actually wrote the Opinion.

c. JOSEPH E. HUDA, has a prior record of improperly communicating with the Judges in the Court of Common Pleas of Allegheny County, Pennsylvania.

d. It is believed that JOSEPH E. HUDA, has started, cultivated and maintained a close relationship with SAUNDRA HOPFER, solely for the purpose of improperly influencing the decisions of Judge LOUIS ROSENBERG.

11. The Judge's deputy, PAULA TEMPLETON, has consistently and outwardly indicated her



displeasure with the Plaintiff, ROBERT WOODS' witnesses during the proceedings in this case by making faces and sounds at the said witnesses while they were testifying on the witness stand. It is believed that she also influences the decisions of the Defendant, LOUIS ROSENBERG.

- 12. It is because of Judge LOUIS ROSENBERG's physical and mental disability that Judge ROSENBERG is rarely ever assigned any cases.
13. Judge LOUIS ROSENBERG was assigned the above referenced case because he was the only Judge who did not attend the Third Circuit's Judicial



Conference in September, 1987 and was therefore available when the JOSEPH E. HUDAk came to his Court with an Ex-Parte Motion for a Temporary Restraining Order on September 16, 1987.

14. At the time Judge LOUIS ROSENBERG was confirmed as a federal judge, by Congress, in the early sixties, there arose a substantial question as to the advisability of appointing him as a federal judge because he was already well into his sixties.
15. On September 14, 1987, JOSEPH E. HUDAk presented an Ex-Parte Motion for Temporary Restraining Order before the Defendant, LOUIS ROSENBERG, claiming that the



Plaintiff, ROBERT WOODS, along with individuals named MICHAEL S. GEISLER, and RICHARD O'BRIEN, were interfering with JOSEPH E. HUDAk's business. A true and correct copy of the said Motion is attached hereto as Exhibit "A".

16. At the time, JOSEPH E. HUDAk was the subject of an involuntary bankruptcy proceeding filed by G. WOODS, the wife of the Petitioner, ROBERT WOODS, at Bankruptcy No. 87-1851 in the United States Bankruptcy Court for the Western District of Pennsylvania, as a result of the failure of JOSEPH E. HUDAk to repay more than \$79,000.00 in



loans made by G. WOODS to JOSEPH
E. HUDAk.

17. After more than five days of hearings, the Petitioners, ROBERT WOODS, and MICHAEL S. GEISLER, and the individual RICHARD O'BRIEN, decided to settle with JOSEPH E. HUDAk, as to some of the issues raised by the Motion for Temporary Restraining Order. A true and correct copy of the Consent Order entered into by the parties is attached hereto as Exhibit "B".
18. One of the provisions of the Consent Order was as follows:

"15. Nothing in the Order shall prohibit any party from pursuing any legal remedy for



which he is
entitled under
the law."

19. On March 31, 1988, JOSEPH E. HUDAK, filed a Motion for Contempt, alleging, among other things, that the Petitioners, ROBERT WOODS, and MICHAEL S. GEISLER, were interfering with the business of JOSEPH E. HUDAK, by the filing of various lawsuits.
20. The motion for contempt also made charges against two attorneys who represented the Petitioner, ROBERT WOODS, in the lawsuits found objectionable, namely JOHN SILVESTRI, and YAIER LEHRER.



21. Beginning on June 7, 1988 and continuing until June 16, 1988, the Defendant held a non-jury trial on the above motion for Contempt.

22. At the conclusion of the non-jury trial, the Defendant found that the Attorneys, JOHN SILVESTRI, and YAIER LEHRER were not guilty of contempt.

23. In the Defendant's Order of December 22, 1988, the Defendant stated that "the attorneys retained by Woods are performing legally".

24. During the period of time from June 16, 1988 until the present,



JOSEPH E. HUDAk has filed nearly
a dozen motions for contempt.

25. On June 21, 1988, MICHAEL S. GEISLER, on behalf of the Plaintiff, ROBERT WOODS, filed two (2) Notices of Appeal from two awards of a panel of arbitrators, which heard two law suits filed in the Court of Common Pleas of Allegheny County, Pennsylvania filed at No. 1675 of 1988 and styled as ROBERT WOODS, and G. WOODS, Plaintiffs, vs. SHARON LAVELLE, and at No. 1676 of 1988, styled as ROBERT WOODS, and G. WOODS vs. SHARON LAVELLE and JOSEPH E. HUDAk. The arbitration panel had denied both the Plaintiff's claim and the Defendant's counterclaim.



26. MICHAEL S. GEISLER endorsed the Notices of Appeal with a certification that JOSEPH E. HUDAk would be receiving notice of the appeal by mail that day.

27. MICHAEL S. GEISLER then sent by ordinary mail, with a certificate of mailing, pursuant to Pa. R.C.P. 440(a) the two Notices of Appeal. The notice was not sent by certified mail because JOSEPH E. HUDAk, has in the past either refused or left certified mail unclaimed. In any case certified mail is not required by the above rule. A true and correct copy of the said Certificate of Mailing is attached hereto as Exhibit "C".



28. On April 18, 1989, both parties received notice of the hearing by publication of the Notice of Hearing in the Pittsburgh Legal Journal. This is not the normal boilerplate notice. It is a multiple page notice listing all of the cases coming due for Non-Jury Trial before the Judge assigned to hear the Appeals within a specified period of time. The publication of the Notice is advertised regularly in the Pittsburgh Legal Journal for several weeks prior to the publication of the Notice. A true and correct copy of the said Notice is attached hereto as Exhibit "D".



29. On June 16, 1989, because of what MICHAEL S. GEISLER, observed as a possible grounds for recusal, and in keeping with his ethical duties as a member of the bar, MICHAEL S. GEISLER, notified Judge Robert Doyle, who was to hear the two (2) appeals, that there existed a possible grounds for recusal, in that ROBERT WOODS's ex-partner, ANTHONY J. PIVIROTTO, had physically assaulted the Judge, ROBERT DOYLE. A copy of the letter was sent to JOSEPH E. HUDAQ, in order to prevent the HUDAQ from claiming that the MICHAEL S. GEISLER, was communicating with the judge ex-parte. A copy of this letter is attached hereto as Exhibit "E".



30. The sole purpose of this letter was to inform the Judge of the grounds for recusal, and not to inform the Plaintiff, JOSEPH E. HUDA, of the hearing date.

31. The letter refers to a hearing date of "Wednesday, July 21, 1989." The date was obviously a mistake, and not an attempt to mislead the Plaintiff, because careful reading of a calendar would have informed JOSEPH E. HUDA, that July 21, 1989 falls on a Friday, not a Wednesday, and that June 21, 1989, falls on a Wednesday.

32. On June 21, 1989, JOSEPH E. HUDA, failed to appear. Both



trials were conducted, and evidence was presented on behalf of ROBERT WOODS, and G. WOODS.

33. On June 23, 1989, the Court entered a verdict of \$782.06 plus interest from September 1, 1987 for ROBERT WOODS, and G. WOODS, and dismissed the counterclaim of SHARON LAVELLE, and JOSEPH E. HUDA. A true and correct copy of the said Non-Jury Verdict is attached hereto as Exhibit "F".

34. On June 26, 1989, the Court entered a verdict of \$653.28 with interest from December 10, 1987 for ROBERT WOODS, and G. WOODS, and dismissed the counterclaim of JOSEPH E. HUDA. A true and correct copy of the said Non-Jury



Verdict is attached hereto as
Exhibit "G".

35. JOSEPH E. HUDAk, filed two (2) Petitions to Open Judgment and presented the Petitions before Judge ROBERT DOYLE, raising the same objections as he brings before this Court on July 10, 1989.
36. JOSEPH E. HUDAk, never filed Post Trial Motions for Relief under Pa. R.C.P. 227.1, and therefore never preserved his right to object to any of the evidence presented at the two Non-Jury Trials within the required ten-day period, and therefore judgment was entered on both



verdicts ten (10) days after the verdict was entered.

37. At the time of the presentation of the two (2) Petitions, MICHAEL S. GEISLER produced the certificate of mailing and the copy of the Pittsburgh Legal Journal advertising the Notice of Hearing and showed both items to Judge Doyle.
38. JOSEPH E. HUDAQ, argued nonsensically that MICHAEL S. GEISLER, sends JOSEPH E. HUDAQ mail "almost every day" and that the certificate of mailing is no proof of notice.
39. JOSEPH E. HUDAQ also stated that he is a "criminal lawyer" and



that he does not read the Pittsburgh Legal Journal.

40. Relying on the fact that the Notice of Hearing was duly published in the Pittsburgh Legal Journal, and that JOSEPH E. HUDAk, filed no Post Trial Motions, Judge ROBERT DOYLE denied both Petitions to Open Judgment, and refused to grant a rule to show cause why the judgment should not be opened. True and correct copies of the orders denying the Petitions to Open Judgment are attached hereto as Exhibits "H" and "I".

41. JOSEPH E. HUDAk, then approached the Superior Court of Pennsylvania, attempting to stay

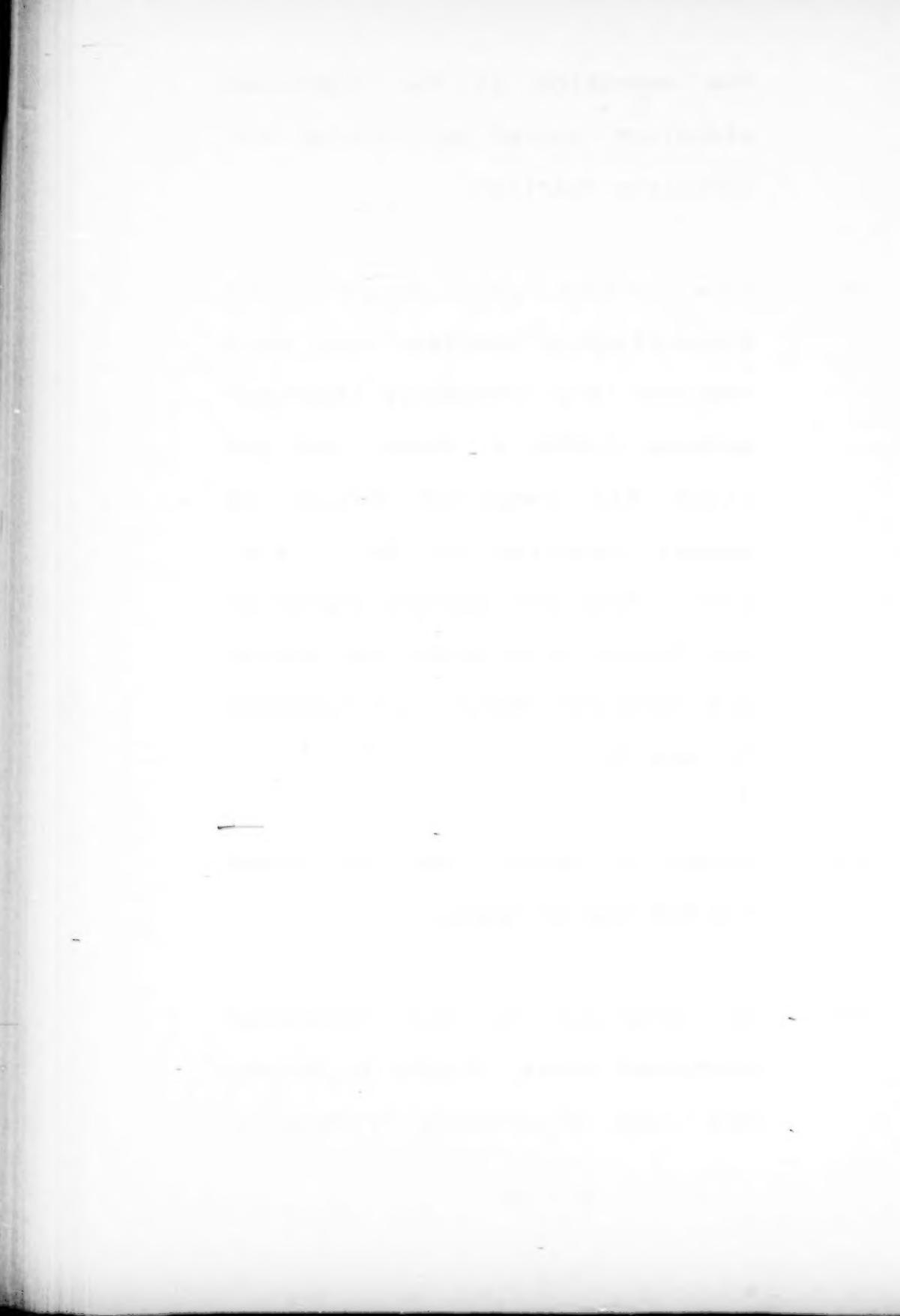


the execution in two identical pleadings styled as "Motion for Immediate Hearing".

42. The Superior Court of Pennsylvania denied the said "Motion for Immediate Hearing" because JOSEPH E. HUDAk, had not filed the required Notice of Appeal required by Pa. R.A.P. 1702. True and correct copies of the Orders dismissing the motion are attached hereto as Exhibits "J" and "K".

43. JOSEPH E. HUDAk, has now filed his Notices of Appeal.

44. In addition to the judgments mentioned above, JOSEPH E. HUDAk, has the following judgments



entered against him in the Court
of Common Pleas of Allegheny
County, Pennsylvania:

- a. Torrence M. Hunt, et. al., vs.
Joseph E. Hudak, at G.D. No. 87-
21135, entered on December 8,
1987, in the amount of
\$11,206.25.

- b. Torrence M. Hunt, et. al., vs.
Joseph E. Hudak, at G.D. No. 87-
21134, entered on December 8,
1987, in the amount of
\$34,024.92.

- c. Torrence M. Hunt, et. al., vs.
Joseph E. Hudak, at G.D. No. 87-
21586, entered on December 15,
1987, in the amount of
\$20,721.25.



d. Pittsburgh Press Co., Inc. vs.
Joseph E. Hudak, at A.D. No. 1146
of 1988, entered on April 15,
1988, in the amount of \$8,580.81.

e. Tribune Review Publishing Co.,
Inc. vs. Joseph E. Hudak, at G.D.
No. 88-8910, entered on May 23,
1988, in the amount of \$844.41.

f. New Image Press vs. Joseph E.
Hudak, at A.D. No. 5802 of 1988,
entered on September 8, 1988, in
the amount of \$1,307.36.

g. Commonwealth of Pennsylvania vs.
Joseph E. Hudak, at G.D. No. 89-
10831, entered on June 28, 1989,
in the amount of \$1,015.59.



45. JOSEPH E. HUDAk, deliberately misled the Defendant, LOUIS ROSENBERG about his having received the Notice of Appeal, when after having been presented with a copy of the certificate of mailing on July 10, 1989, he represented to the Respondent that he received no Notice of Appeal.

46. JOSEPH E. HUDAk, deliberately misled the Defendant, LOUIS ROSENBERG, about his being unable to post a bond when his wife, SHARON LAVELLE, testified before this Court on June 7, 1988 that "My yearly salary is about thirty-thousand", (A true and correct copy of the relevant part of the transcript of the contempt



hearing commencing on Tuesday, June 7, 1988, Volume 1, page 98 is attached hereto as Exhibit "L"), and the Plaintiff, JOSEPH E. HUDA, is known to be employed by Hyatt Legal Services, whose starting salary is known to be at least \$24,000.00 per year.

47. On July 25, 1989, JOSEPH E. HUDA, filed an Emergency Motion to prevent the execution of the two judgments.
48. After a hearing was held on July 27, 1989 concerning the "Emergency Motion" the Respondent determined that the execution of the two judgments was "a continuation of the conduct specifically prohibited by this

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enrolled in each year, and the number of students

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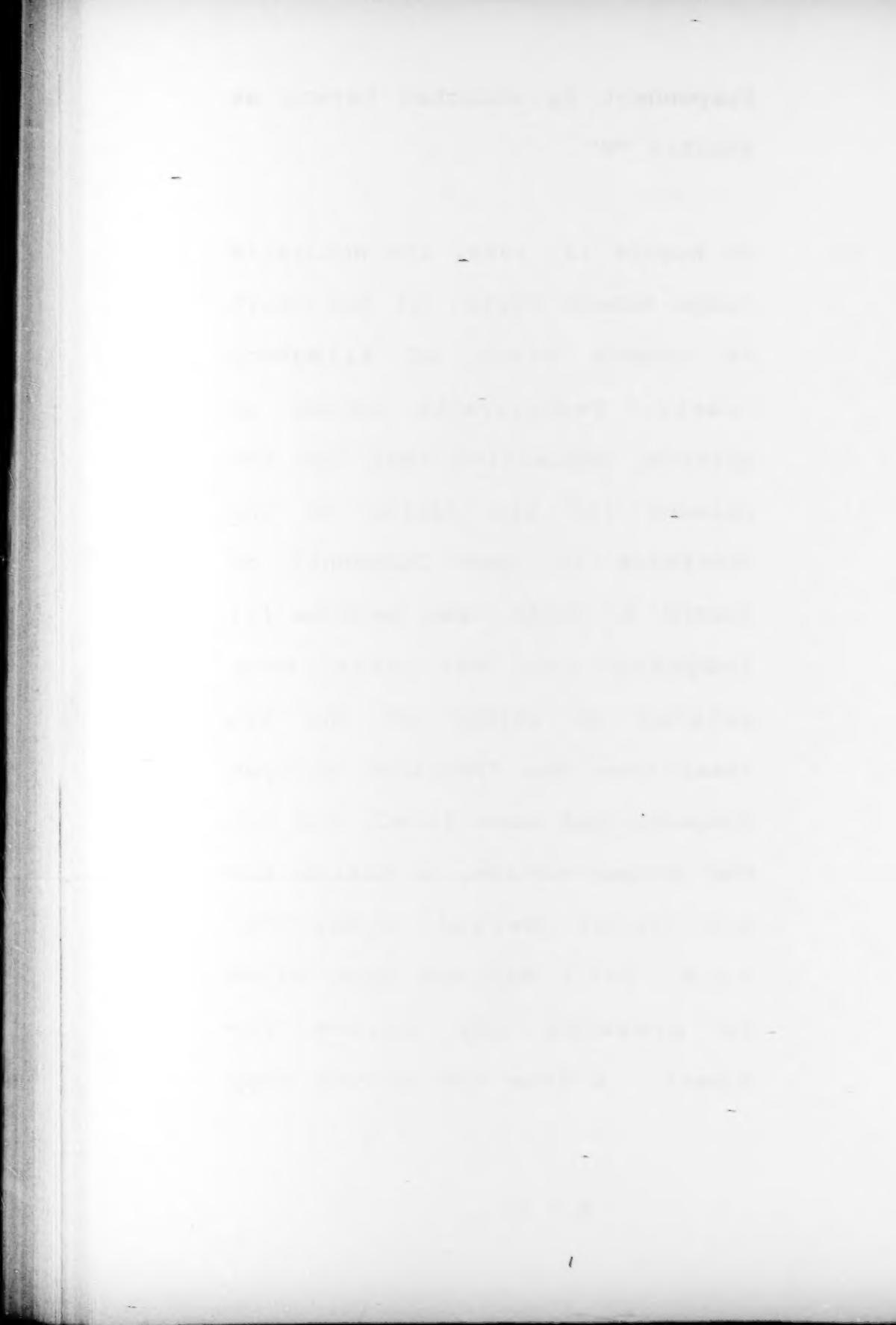
Court's Orders of September 30, 1987 and October 1, 1987, and December 22, 1988 as affirmed by the United States Court of Appeals for the Third Circuit on June 28, 1989."

49. The Defendant, LOUIS ROSENBERG, completely dismissed the documentary evidence presented by the Plaintiff, ROBERT WOODS, and MICHAEL S. GEISLER, in the form of the Certificate of Mailing, because, and I quote, "this is not attached to any letter or other document to show what was mailed to Hudak at this time."(Emphasis added). A true and correct copy of the said Opinion and Order of the

the time. We would be glad
to have you come and see us.
We are sending you a copy
of our new book "The
Book of the Month Club".
It is a good book and
we hope you will like it.
We are sending you a copy
of our new book "The
Book of the Month Club".
It is a good book and
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Respondent is attached hereto as
Exhibit "M".

50. On August 11, 1989, the Honorable Judge Robert Doyle, of the Court of Common Pleas of Allegheny County, Pennsylvania issued an opinion, explaining that the two reasons for his denial of the "Petition to Open Judgment" of JOSEPH E. HUDA, was because (1) judgment had not even been entered in either of the two cases when the "Petition to Open Judgment had been filed, and (2) the proper motion, a Motion for Post-Trial Relief under Pa. R.C.P. 227.1 had not been filed to preserve any issues for appeal. A true and correct copy



of that Opinion is attached
hereto as Exhibit "N".

51. A Motion to Dismiss Appeal was filed in the Superior Court of Pennsylvania on August 18, 1989, asking that the Superior Court of Pennsylvania dismiss the appeals filed by JOSEPH E. HUDA, because he did not properly preserve any issues for appeal.
52. By Order entered on August 7, 1989, the Defendant, LOUIS ROSENBERG, by the signature of Honorable District Judge Paul Simmons, converted the Temporary Restraining Order into a Preliminary Injunction.



53. The Defendant, LOUIS ROSENBERG, is attempting to use his personal jurisdiction over the Plaintiff, ROBERT WOODS, and MICHAEL S. GEISLER in order to litigate matters properly before the courts of the Commonwealth of Pennsylvania.

54. The Defendant, LOUIS ROSENBERG, is allowing JOSEPH E. HUDAK to abuse his Court in order to relitigate every case he loses in state court.

55. The Defendant, LOUIS ROSENBERG, is exceeding this Court's Opinion and Order of June 28, 1989, in broadly interpreting the part of the purgation order which reads:



"The Defendants shall cease and desist from molesting, directly or indirectly, Joseph E. Hudak"

56. The Defendant, LOUIS ROSENBERG, is attempting to restrain the Plaintiff, ROBERT WOODS from pursuing his state law claims against JOSEPH E. HUDAK, which they were entitled to pursue under paragraph 15 of the Consent Order of October 1, 1987, under the guise of "attempting to molest JOSEPH E. HUDAK".
57. The appeals filed by JOSEPH E. HUDAK in the Superior Court of Pennsylvania are meritless, because JOSEPH E. HUDAK did not properly preserve any issues for



appeal, by failing to file post-trial motions for relief.

58. The actions of the Defendants constitute a cause of action under 42 U.S.C. Section 1983, in that the actions of the Defendants, in acting improperly, in clear absence of any subject matter jurisdiction, and under color of law, have deprived the Plaintiff of his right to due process guaranteed by the Fifth and Fourteenth Amendments of the Constitution, and because of the clear absence of subject matter jurisdiction, are not protected by the common law principles of judicial immunity.



59. By reason of the improper and illegal use of personal jurisdiction over the Plaintiff in clear absence of subject-matter jurisdiction, in granting the said preliminary injunction, Plaintiff was required to and did employ legal counsel to appeal the said order to the United States Court of Appeals for the Third Circuit, where the matter is now pending.

60. Plaintiff has incurred reasonable attorney's fees in connection with the appeal of the preliminary injunction, and will continue to incur additional attorney's fees to properly prosecute the appeal.

— The Committee will be pleased to receive

any suggestions or comments you may have.

— We hope to have the report ready by

the end of the month of October.

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the end of the month of October.

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61. The conduct of Defendants, and each of them, deprived Plaintiff of property without due process of law, and deprived the Plaintiff of his right to equal protection of the laws, secured by the Fifth and Fourteenth Amendments of the Constitution of the United States.

62. The acts, conduct, and behavior of Defendants, and each of them, were performed knowingly, intentionally, and maliciously, by reason of which Plaintiff is entitled to an award of punitive damages in a sum in excess of \$20,000.00.

WHEREFORE, Plaintiff demands judgment:

- a. Awarding the Plaintiff damages in an amount in excess of \$20,000.00;

- b. Awarding the Plaintiff punitive damages in an amount in excess of \$20,000.00;

- c. Awarding the Plaintiff the reasonable costs and expenses of this action;

- d. Granting the Plaintiff such other and further relief as may be just.

THE INFLUENCE OF THE CULTURE AND HABITS OF THE PEOPLE

ON THE PRACTICE OF MEDICAL ETHICS

BY

JOHN W. DODD,

PROFESSOR OF MEDICAL ETHICS IN THE UNIVERSITY OF TORONTO.

WITH A HISTORY OF THE PROGRESS OF MEDICAL ETHICS IN CANADA.

IN TWO VOLUMES. VOL. I. PART I.

THE PRACTICE OF MEDICAL ETHICS IN CANADA.

DATED: _____ BY: _____
ROBERT WOODS,
PLAINTIFF

427 Coventry Road
Pittsburgh, PA 15213

Tele: (412) 281-6668



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT WOODS,)
)
Plaintiff)
)
v. Civil Action No. 89-2172
)
LOUIS ROSENBERG, PAULA)
TEMPLETON and SANUDRA HOPFER)
)
Defendants)

MOTION TO DISMISS

AND NOW comes defendants, United States District Court Judge Louis Rosenberg, Paula Templeton, Deputy Clerk, and Saundra M.G. Hopfer, Law Clerk, hereinafter referred to as defendants herein, by their counsel, Charles D. Sheehy, Acting United States Attorney for the Western District of Pennsylvania, and Albert W. Schollaert, Assistant United

States Attorney for said district, and pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, respectfully moves the Court to issue an Order dismissing the complaint of plaintiff Robert Woods, with prejudice, on the following grounds:

1. The complaint fails to state a claim upon which relief can be granted.
2. All allegations contained in said complaint arose as a result of acts or omissions by these federal judicial defendants in the discharge of their official duties and are, therefore, protected by the doctrines of absolute judicial immunity and quasi-judicial or official immunity.

3. Plaintiff's claims against the defendants herein are patently vexatious, meritless, frivolous and malicious.

4. A Memorandum of Law in support of this motion is being filed simultaneously herewith and the contents therein incorporated by reference.

WHEREFORE, federal judicial defendants respectfully request this Honorable Court to enter an Order dismissing the complaint of plaintiff Robert Woods with prejudice and with costs being assessed against plaintiff and such other relief as the Court deems just and proper.

Respectfully submitted,

CHARLES D. SHEEHY
Acting United States
Attorney

By: ALBERT W. SCHOLLAERT
Assistant U.S. Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT WOODS,

:
:
:

Plaintiff,

:
:
:

vs.

C.A. No. 89-2172

:

LOUIS ROSENBERG,

:
:
:

PAULA TEMPLETON, and

:
:
:

SAUNDRA HOPFER,

:
:
:

Defendants,

:
:
:

RESPONSE TO MOTION
TO DISMISS

AND NOW, comes ROBERT WOODS, pro se,
and files this Response to Motion to
Dismiss.

1. The acts of the Defendants were performed in clear absence of subject matter jurisdiction, in that they had no subject matter jurisdiction to rule on the adequacy of notice in a state

court action, where the matter had been presented to and ruled upon by a state court judge, and not removed to federal court.

2. The Plaintiff's claims against the Defendants are for redress of damages for patently vexatious, meritless, frivolous and malicious acts committed by the Defendants against the Plaintiff.
3. A Memorandum of Law in support of this Response is being filed simultaneously herewith and the contents therein incorporated by reference.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court to enter an

and, in this case, would indicate a long
single stroke, and the following short
one, both of which are to be read as

one word, and the first part of the
word is to be read as a single stroke.

The second part of the word is to be read
as two strokes, one long and one short.

The third part of the word is to be read
as three strokes, one long, one medium,

and one short.

The fourth part of the word is to be read
as four strokes, one long, one medium,

one short, and one very short.

The fifth part of the word is to be read
as five strokes, one long, one medium,

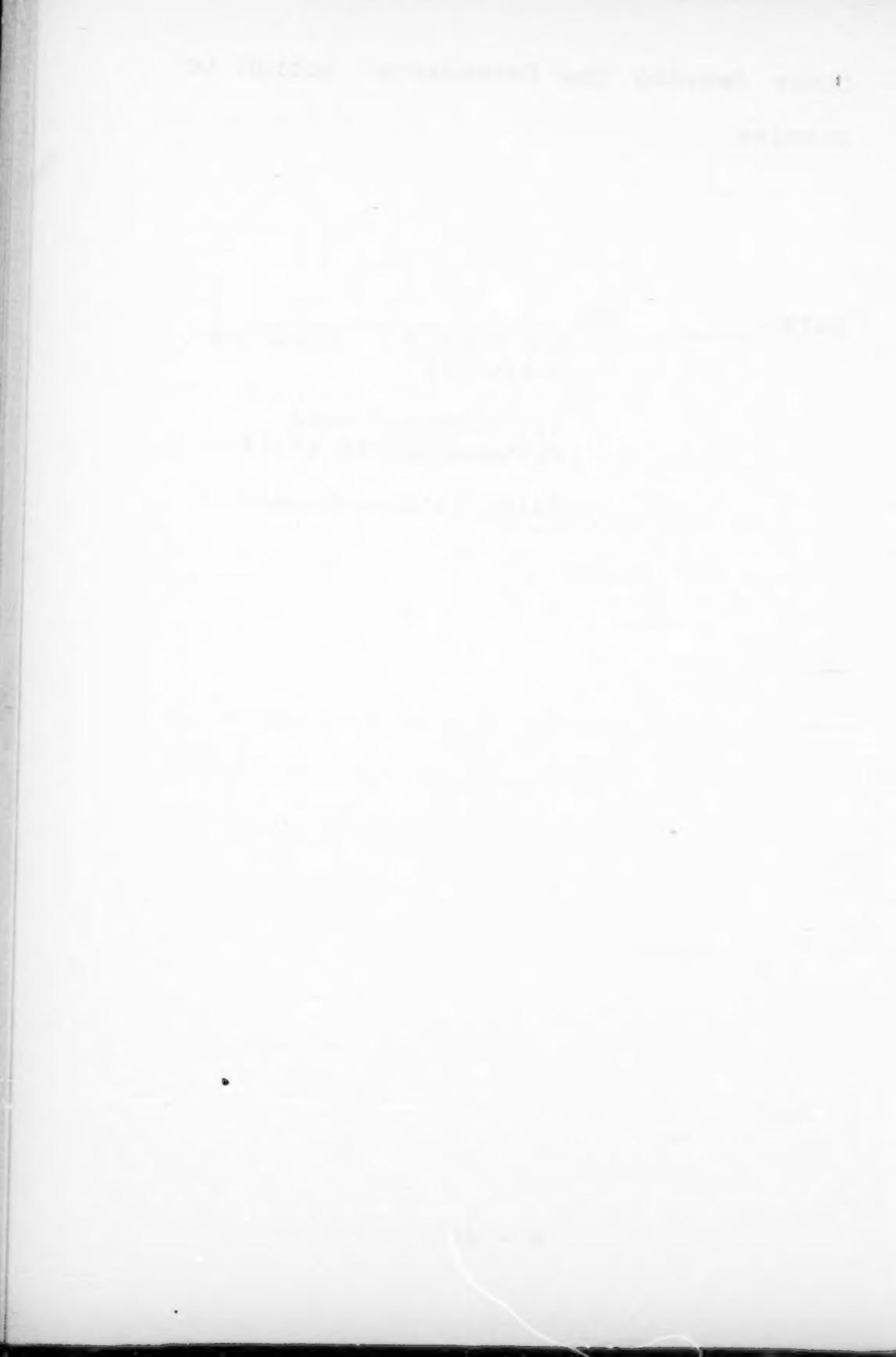
one short, one very short, and one
very, very short.

Order denying the Defendants' Motion to
Dismiss.

DATED: _____ BY: ROBERT WOODS,
PLAINTIFF

427 Coventry Road
Pittsburgh, PA 15213

Tele: (412) 281-6668



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT WOODS, :
 :
 :
Plaintiff, :
 :
 :
vs. C.A. No. 89-2172
 :
 :
LOUIS ROSENBERG, :
PAULA TEMPLETON, and :
SAUNDRA HOPFER, :
 :
Defendants, :
 :

ORDER OF COURT

AND NOW, to wit, this _____ day of
-----, 1989, upon
consideration the Motion to Dismiss and
the Reply thereto, IT IS HEREBY ORDERED
that said Motion is DENIED.

United States District Judge



UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 89-3557

JOSEPH E. HUDAK

v.

ROBERT WOODS, MICHAEL S. GEISLER, and
RICHARD O'BRIAN

Robert Woods, Appellant

On Appeal from the United States District
Court for the Western District of
Pennsylvania
Civil No. 87-1999

Submitted Under Third Circuit Rule 12 (6)
on February 8, 1990
On Appellant's Brief Only

BEFORE: GREENBERG, SCIRICA, and SEITZ,
Circuit Judges

(Filed: Feb 23, 1990)

Michael S. Geisler, Esquire
417 Allegheny Building
Pittsburgh, PA 15219
Attorney for Appellant



OPINION OF THE COURT

PER CURIAM.

This is an appeal by appellant, Robert Woods, from a preliminary injunction order instructing him and another to direct the Allegheny County Sheriff's Office to cease and desist from execution on an identified judgment, involving appellee, entered by the Allegheny County Court of Common Pleas. The district court justified its order on a finding that the appellant's conduct in the state court proceeding was a continuation of conduct enjoined in earlier orders. Contempt of those orders had been upheld in a series of appeals decided in an unpublished opinion of this



Court, Hudak v. Woods, 879 F.2d 857 (3d Cir. 1989).

The basis for the district court's order is puzzling. If it were based on a violation of its earlier orders, as the district court implies, one would think a contempt order had been sought. But, on the assumption that the injunction was warranted on some theory of interference with the operation of the federal court orders, it is not apparent to us how a dispute as to the adequacy of a notice of hearing in the Court of Common Pleas was a matter for federal cognizance. Indeed it seems particularly strange to us that the injunction was to be operative "until further order of this court, pending resolution of the plaintiff's appeal in the state court." Assuredly, the matter of a stay of execution on a state court



judgment pending review in a higher state court, without more, cannot justify federal court intervention. Since we are unable to discern a basis in fact for federal court involvement in the Common Pleas action, we will reverse the order of the district court granting a preliminary injunction.

To the Clerk of the Court:

Please file the foregoing per curiam opinion.

Circuit Judge